

A.

Finance Commission

Committee Material

And

Other Finance Commission Matters

AGENDA

FINANCE COMMISSION MEETING

Friday, April 20, 2012
9:30 a.m. or Upon Adjournment of the
Audit Committee Meeting, Whichever is Later

Hearing Room E2.028, Texas Capitol Extension
Austin, Texas 78701

Section A.4 will take up the following agenda items with NO DISCUSSION as notated in bold and underlined: B3; C2.

Public comment on any agenda item or issue under the jurisdiction of the Finance Commission agencies is allowed unless the comment is in reference to a rule proposal for which the public comment period has ended. However, upon majority vote of the Commission, public comment may be allowed related to final rule adoption.

A. Finance Commission Matters

1. Review and Approval of the Minutes of the February 16, 2012, Industry Briefing Session.
2. Review and Approval of the Minutes of the February 17, 2012, Finance Commission Meeting.
3. General Public Comment.
4. Consent Agenda.
5. Finance Commission Operations – Legislative Issues; Testimonies and Correspondence; and Agency Complaints.
6. Discussion of and Possible Vote to Accept the *Report of the Financial Condition of the State Banking System*. (Bound separately from the packet)
7. Study Committee Report
 - A. Progress Report on the Finance Commission Study of Fees, Costs, Interest, and Other Expenses Charged in Connection with the Transfer of Property Tax Liens.
 - B. Discussion of and Possible Vote to Adopt Finance Commission of Texas Procedures Regarding Potential Conflict of Interest.
8. Audit Committee Report
 - A. Audit Committee Review of Agencies' Activities.
 - B. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' February 29, 2012, Investment Officer Reports.
 - C. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' Second Quarter Financial Statements.

- D. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Office of Consumer Credit Commissioner's Follow-up Audit Report as Prepared by the State Auditor's Office.
- E. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Audit of the Department of Banking's Prepaid Funeral Guaranty Funds.
- 9. Discussion of and Possible Vote Taking Action on the Finance Commission Agency Heads' Fiscal Year 2012 Mid-Term Accomplishment Reports.
- 10. Discussion Regarding the Process of Strategic Planning for the Finance Commission Agencies' 2013-2017 Strategic Plans.
- 11. Discussion of and Possible Action Regarding Personnel Matters Pursuant to Section 551.074, Texas Government Code: Deliberations with Respect to the Duties of a Person Holding the Position of Executive Director of the Finance Commission, Deliberations with Respect to the Duties of Persons Holding the Position of Agency Commissioner Positions, and Other Staff.
- 12. Discussion of and Possible Action Regarding Facility Planning and Real Property Matters Pursuant to Section 551.072, Texas Government Code: Deliberations Regarding the Purchase, Exchange, Lease or Value of Real Property.
- 13. Discussion of and Possible Action Regarding Anticipated and Pending Litigation Pursuant to Section 551.071, Texas Government Code, for the purpose of seeking the advice or attorney-client privileged communications from our attorneys regarding pending and contemplated litigation.

The Finance Commission of Texas, The Credit Union Commission of Texas, and Texas Bankers Association v. Association of Community Organizations for Reform Now (ACORN), Valerie Norwood, Elise Shows, Maryann Robles-Valdez, Bobby Martin, Pamela Cooper, and Carlos Rivas.

B. Office of Consumer Credit Commissioner

- 1. Industry Status and Departmental Operations: a) Consumer Protection; b) Consumer Assistance; c) Licensing; d) Credit Education; e) Financial and Administration; f) Legal Activity; and g) Legislative Activity.
- 2. Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC §83.6007, Concerning Consumer Disclosures for Credit Access Businesses.

PURPOSE: The purpose of the amendments to §83.6007 is to clarify the rule's application to an existing business practice for payday and auto title loans transacted by credit access businesses via the Internet. The amendments also provide guidance to the industry as to when and how the consumer disclosures should be provided under this business model.

RECOMMENDED ACTION: The agency requests that the Finance Commission approve the amendments to 7 TAC §83.6007 with changes as previously published in the *Texas Register*.

RECOMMENDED MOTION: I move that we approve the amendments to 7 TAC §83.6007.

3. **Discussion of and Possible Vote to Take Action on the Adoption of the Completed Rule Review of 7 TAC, Chapter 89, Property Tax Lenders.**

PURPOSE: Pursuant to Texas Government Code, §2001.039, the agency has completed the review of 7 TAC, Chapter 89. The notice of the review was published in the *Texas Register* as required on March 16, 2012 (37 TexReg 1917). The commission received no comments in response to that notice. The commission believes that the reasons for initially adopting the rules contained in this chapter continue to exist. As a result of internal review by the agency, the commission has determined that certain revisions are appropriate and necessary. The commission is concurrently proposing amendments and new rules to 7 TAC Chapter 89 presented separately in these materials.

RECOMMENDED ACTION: The agency requests that the Finance Commission approve and adopt the rule review of Chapter 89 as the reasons for these rules continue to exist.

RECOMMENDED MOTION: I move that we find that the reasons for adopting Chapter 89 continue to exist and that the rules are repropose and readopted.

4. Discussion of and Possible Vote to Take Action on the Publication for Comment of Amendments to and New Rules in 7 TAC, Chapter 89, Concerning Property Tax Lenders, Resulting from Rule Review.

PURPOSE: In general, the purpose of the amendments and new rules regarding 7 TAC, Chapter 89 is to implement changes resulting from the commission's review of Chapter 89 under Texas Government Code, §2001.039. Most of the changes are technical in nature and relate to improvements in consistency, grammar, punctuation, capitalization, and formatting. Additional changes provide clarification, more precise legal citations, and improved internal regulation references. The new language is generally intended to address issues discovered during the examination process. The major formatting changes serve to implement streamlining improvements in the licensing process similar to those used for the newly licensed credit access businesses.

RECOMMENDED ACTION: The agency requests that the Finance Commission approve the proposed amendments to 7 TAC, Chapter 89 for publication in the *Texas Register*.

RECOMMENDED MOTION: I move that we approve for publication and comment the proposed amendments to 7 TAC, Chapter 89.

5. Discussion of and Possible Vote to Adopt a Resolution Recommending that the Legislature Consider Legislation to Support Uniformity of Laws Governing Credit Access Businesses.

PURPOSE: The purpose of the resolution is to recommend that the Texas Legislature consider legislation to support uniformity of laws governing credit access businesses in Texas.

RECOMMENDED ACTION: The agency requests that the Finance Commission approve the resolution.

RECOMMENDED MOTION: I move that we approve the resolution to recommend that the Texas Legislature consider legislation to support uniformity of laws governing credit access businesses in Texas.

6. Discussion of and Possible Action Regarding Anticipated and Pending Litigation.

C. Department of Banking

1. Industry Status and Departmental Operations: a) Items of Interest from the Commissioner's Office; b) Bank and Trust Division Activities; c) Corporate Division Activities; d) Special Audits Division Activities; e) Fiscal Division Activities; f) Strategic Support Division Activities; g) Legal Division Activities; h) Legislative Activity; and i) General Items of Interest.
2. **Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC §12.7 Concerning Lease Financing, 7 TAC §12.9 Concerning Aggregation and Attribution, and 7 TAC §12.10 Concerning Nonconforming Loans.**

PURPOSE: The purpose of the amendments is:

§12.7(b) -- to expand application of the rule to the purchase of leases from leasing companies in addition to loans to leasing companies. The amendment clarifies when leases purchased by a bank from leasing companies will be considered to be loans to the lessees.

§12.9(e) -- to reduce the current legal lending limit for a bank's loans to a corporate group from 75% to 60% of Tier 1 capital. This will reduce the potential risk of loss to state banks making loans or extensions of credit to affiliated borrowers.

§12.10 -- to add a new Subsection (a)(3) which permits a loan to be treated as non-conforming if it exceeds the legal lending limit because the bank has merged with another depository institution or purchased assets of a failed bank.

The Department received no comments on the proposed amended rules.

RECOMMENDED ACTION: The Department recommends that the Commission approve adoption of the amended rules as published in the *Texas Register*.

RECOMMENDED MOTION: I move that we adopt amendments to 7 TAC §§12.7, 12.9 and 12.10, as published in the *Texas Register*.

3. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC §25.25 Concerning Prepaid Funeral Contracts.

PURPOSE: The amendments to §25.25 would set the minimum annual interest rate for conversion annuities between one percent (1%) and three percent (3%) based on prevailing market rates at the time of application rather than the two percent (2%) minimum annual rate used currently. This change will add flexibility in setting guaranteed interest rates used in conversion annuities.

RECOMMENDED ACTION: The Department recommends that the Commission approve publication of the proposed amended rule in the *Texas Register*.

RECOMMENDED MOTION: I move that we publish proposed amendments to 7 TAC §25.25, in the *Texas Register*.

4. Discussion of and Possible Action Regarding Anticipated and Pending Litigation.

State of Texas v. Stephenville Memorial Gardens, Inc.; Cause No. 30853, in the 266th District Court of Erath County, Texas.

Texas Department of Banking v. Greg Abbott, Attorney General of Texas; Cause No. D-1-GV-11-001906, In the 53rd District Court of Travis County, Texas.

D. Department of Savings and Mortgage Lending

1. Industry Status and Departmental Operations – State Savings Bank Activity: a) Industry Status; b) State Savings Bank Charter and Application Activity; c) Wholesale Savings & Loan Charter and Application Activity; d) Recap of Problem Institutions/Enforcement Issues; and e) Other Issues.
2. Industry Status and Departmental Operations – Mortgage Lending Activity: a) Residential Mortgage Loan Originators; b) Mortgage Examination; c) Consumer Complaints/Legal Activity; d) Mortgage Industry Advisory Committee Minutes; and e) Other Issues.
3. Fiscal/Operations Activity: a) Funding Status/Audits/Financial Reporting; b) Staffing; and c) Other Issues.
4. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC Chapter 80 (§§80.8 - 80.23 and §§80.301 - 80.307) relating to Texas residential mortgage loan originator regulations, under Rule Review.

PURPOSE: Texas Government Code §2001.039 requires a state agency to review each of its rules every four years and readopt, readopt with amendments, or repeal a rule based upon the agency's rule review and its determination as to whether the reasons for initially adopting the rule continue to exist.

Notice of the proposed review of 7 TAC Chapter 80 was published in the *Texas Register* as required on December 23, 2011 (36 Tex. Reg. 9017). The Department received no comments regarding the review.

The Department believes that the reasons for initially adopting the rules in 7 TAC Chapter 80 continue to exist and 7 TAC Chapter 80 should be readopted. Under rule review, the Department will also propose that the rules in 7 TAC Chapter 80 be repealed and adopted as new; the purpose of which is to enhance the clarity of existing language, to repeal language that unnecessarily duplicates existing statutes, to enhance structural organization, and to reflect current practice.

RECOMMENDED ACTION: The Department recommends that the Commission find the reasons for initially adopting the rules in 7 TAC Chapter 80 continue to exist, and the Commission readopt these rules.

RECOMMENDED MOTION: I move that we find the reasons for initially adopting the rules in 7 TAC Chapter 80 continue to exist, and those rules be readopted.

5. Discussion of and Possible Vote on the Publication of the Proposed Repeal of 7 TAC Chapter 80 as found in §§80.8 - 80.23 and §§80.301 - 80.307.

PURPOSE: The purpose of the repeal is to enhance the clarity of existing language, to repeal language that unnecessarily duplicates existing statutes, to enhance structural organization, and to reflect current practice. To that end, the Department will also recommend the adoption of new 7 TAC Chapter 80.

RECOMMENDED ACTION: The Department recommends that the Commission approve publication of the repeal of Chapter 80 for comment in the Texas Register.

RECOMMENDED MOTION: I move that we publish the repeal of Chapter 80 as found in §§80.8 - 80.23 and §§80.301 - 80.307.

6. Discussion of and Possible Vote to Take Action on the publication for comment of new 7 TAC Chapter 80 concerning Subchapter A General Provisions, including §80.1, concerning Scope; §80.2, concerning Definitions; §80.3, concerning Interpretations; §80.4, concerning Enforceability of Liens; and §80.5, concerning Savings Clause; Subchapter B, concerning Licensing, including §80.100, concerning Licensing-General; §80.101, concerning Education Program; §80.102, concerning Sponsorship and Termination Thereof; §80.103, concerning License Record Changes; §80.104, concerning Background Checks; §80.105, concerning Request for Criminal History Eligibility Determination; §80.106, concerning Renewals; and §80.107, concerning Fees; Subchapter C, concerning Duties and Responsibilities, including, §80.200, concerning Required Disclosures; §80.201, concerning Loan Status Forms; §80.202, concerning Prohibition on False, Misleading, or Deceptive Practices and Improper Dealings; §80.203, concerning Advertising; §80.204, concerning Books and Records; and §80.205, concerning Mortgage Call Reports; and Subchapter D, concerning Compliance and Enforcement, including §80.300, concerning Examinations; §80.301, concerning Complaints, Investigations, Administrative Penalties, and Disciplinary and/or Enforcement Actions; and §80.302, concerning Hearings and Appeals.

PURPOSE: The addition of the rules under new Chapter 80 is proposed to allow the Department to reorganize the rules, clarify existing rules and practices, and use current terminology.

RECOMMENDED ACTION: The Department recommends the Commission approve publication of new 7 TAC Chapter 80, Subchapter A, §§80.1-80.5; Subchapter B, §§80.100-80.107; Subchapter C, §§80.200-80.205; and Subchapter D, §§80.300-80.302, for comment in the *Texas Register*.

RECOMMENDED MOTION: I move that we approve publication of new 7 TAC Chapter 80, Subchapter A, §§80.1-80.5; Subchapter B, §§80.100-80.107; Subchapter C, §§80.200-80.205; and Subchapter D, §§80.300-80.302, for comment in the *Texas Register*.

7. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC Chapter 81 (§§81.1 - 81.20) relating to mortgage banker registration and residential mortgage loan officer licensing, under Rule Review.

PURPOSE: Texas Government Code §2001.039 requires a state agency to review each of its rules every four years and readopt, readopt with amendments, or repeal a rule based upon the agency's rule review and its determination as to whether the reasons for initially adopting the rule continue to exist.

Notice of the proposed review of 7 TAC Chapter 81 was published in the Texas Register as required on December 23, 2011 (36 Tex. Reg. 9017). The Department received no comments regarding the review.

The Department believes that the reasons for initially adopting the rules in 7 TAC Chapter 81 continue to exist and 7 TAC Chapter 81 should be readopted. Under Rule Review, the Department will also propose that the rules in 7 TAC Chapter 81 be repealed and adopted as new; the purpose of which is to enhance the clarity of existing language, to repeal language that unnecessarily duplicates existing statutes, to enhance structural organization, and to reflect current practice.

RECOMMENDED ACTION: The Department recommends that the Commission find the reasons for initially adopting the rules in 7 TAC Chapter 81 continue to exist, and the Commission readopt these rules.

RECOMMENDED MOTION: I move that we find the reasons for initially adopting the rules in 7 TAC Chapter 81 continue to exist, and those rules be readopted.

8. Discussion of and Possible Vote on the Publication of the Proposed Repeal of 7 TAC Chapter 81 as found in §§81.1 - 81.20.

PURPOSE: The purpose of the repeal is to enhance the clarity of existing language, to repeal language that unnecessarily duplicates existing statutes, to enhance structural organization, and to reflect current practice. To that end, the Department will also recommend the adoption of new 7 TAC Chapter 81.

RECOMMENDED ACTION: The Department recommends that the Commission approve publication of the repeal of Chapter 81 for comment in the *Texas Register*.

RECOMMENDED MOTION: I move that we publish the repeal of Chapter 81 as found in §§81.1 - 81.20.

9. Discussion of and Possible Vote to Take Action on the publication for comment of new 7 TAC Chapter 81 concerning Subchapter A General Provisions, including §81.1, concerning Scope; §81.2, concerning Definitions; §81.3, concerning Interpretations; §81.4, concerning Enforceability of Liens; and §81.5, concerning Savings Clause; Subchapter B, concerning Licensing, including §81.100, concerning Licensing-General; §81.101, concerning Sponsorship and Termination Thereof; §81.102, concerning Recovery Fund; §81.103, concerning Request for Criminal History Eligibility Determination; §81.104, concerning Renewals; and §81.105, concerning Fees; Subchapter C, concerning Duties and Responsibilities, including §81.200, concerning Required Disclosures; §81.201, concerning Loan Status Forms; §81.202, concerning Prohibition on False, Misleading, or Deceptive Practices and Improper Dealings; §81.203, concerning Advertising; §81.204, concerning Books and Records; and §81.205, concerning Mortgage Call Reports; and Subchapter D, concerning Compliance and Enforcement, including §81.300, concerning Examinations; §81.301, concerning Complaints and Investigations; and §81.302, concerning Hearings and Appeals.

PURPOSE: The addition of the rules under new Chapter 81 is proposed to allow the Department to reorganize the rules, clarify existing rules and practices, and use current terminology.

RECOMMENDED ACTION: The Department recommends the Commission approve publication of new 7 TAC Chapter 81, Subchapter A, §§81.1- 81.5; Subchapter B, §§81.100-81.105; Subchapter C, §§81.200-81.205; and Subchapter D, §§81.300-81.302, for comment in the *Texas Register*.

RECOMMENDED MOTION: I move that we approve publication of new 7 TAC Chapter 81, Subchapter A, §§81.1- 81.5; Subchapter B, §§81.100-81.105; Subchapter C, §§81.200-81.205; and Subchapter D, §§81.300-81.302, for comment in the *Texas Register*.

10. Discussion of and Possible Action Regarding Anticipated and Pending Litigation.

Note: The Finance Commission Committee may go into executive session (close its meeting to the public) on any agenda item if appropriate and authorized by the Open Meetings Act, TEXAS GOVERNMENT CODE, Chapter 551.

Meeting Accessibility: Under the Americans with Disabilities Act, the Finance Commission of Texas will accommodate special needs. Those requesting auxiliary aids or services should notify Tammy King Wooten, Finance Commission of Texas, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 936-6222, as far in advance of the meeting as possible.

MINUTES OF THE

Finance Commission Agency Briefing Meeting

Thursday, February 16, 2012

The Briefing Session of the Finance Commission of Texas was held Thursday, February 16, 2012, in Hearing Room E2.028, Texas Capitol Extension, 1100 N. Congress Avenue, Austin, Texas.

Members in attendance:

Bill White, Finance Commission Chair
Susan Burton, Finance Commission Member
Darby Byrd, Finance Commission Member
Victor Leal, Finance Commission Member
Stacy London, Finance Commission Member
Cindy Lyons, Finance Commission Member
Lori McCool, Finance Commission Member
Jonathan Newton, Finance Commission Member
Larry Patton, Finance Commission Member
Paul Plunket, Finance Commission Member
Jay Shands, Finance Commission Member

Others in attendance:

Doug Foster, Executive Director to the Finance Commission and Commissioner, Texas Department of Savings and Mortgage Lending (SML)
Charles Cooper, Commissioner, Texas Department of Banking (DOB)
Leslie Pettijohn, Commissioner, Office of Consumer Credit Commissioner (OCCC)
Jim Crowson, Assistant Attorney General, Office of the Attorney General

Finance Commission Chair Bill White called the Briefing Session to order with a quorum of 11 Members present at 3:08 p.m.

- A. Briefing Regarding Industry Perspective of Consumer Installment Lending under TEX FIN CODE, Chapter 342. (OCCC)
1. Presentation by Texas Consumer Finance Association (TCFA)

Mr. Lee Moore and Mr. Mark Silence representing TCFA provided an overview of consumer installment lending. Mr. Moore states that the association represents approximately 85% of the installment lending locations.

He continued giving a legislative review and history of the installment lending industry, while detailing the state examination and report filing requirements.

There was discussion and questions among Commission Members regarding specific details of the consumer business, interest rates, and the locations of lenders.

B. Briefing Regarding Industry Perspective of Property Tax Lending under TEX FIN CODE, Chapter 351 and TEX TAX CODE, Chapter 32. (OCCC)

1. Presentation by Texas Property Tax Lien Holders Association (TPTLA)

Mr. Jack Nelson, Mr. Doug Ruby, and Ms. Mary Doggett with the TPTLA provided an overview of the industry. Mr. Nelson detailed the history of the tax lien transfer process, including an explanation of lien holders and the foreclosure process.

Mr. Nelson highlighted recent legislative changes or updates to tax lien transfer authority and the examination authority for OCCC. He provided the standards and objectives of the TPTLA.

Commission Member Plunket commented on the collection of property taxes on behalf of other government entities and Mr. Nelson gave examples of this process. There was discussion among Committee Members in reference to debt to income ratio, federal regulation, industry examinations, and county rates or penalties charged. Commissioner Cooper requested information regarding the projection of the industry's growth within the commercial mortgage areas. Mr. Nelson addressed the comments and answered all questions.

There being no further business, Chairman Bill White adjourned the Finance Commission Briefing Session at 4:03 p.m. on Thursday, February 16, 2012.

Bill White, Chair
Finance Commission of Texas

Doug Foster, Executive Director of the
Finance Commission of Texas

Tammy King Wooten, Executive Assistant
Finance Commission of Texas

MINUTES OF THE
FINANCE COMMISSION MEETING

Friday, February 17, 2012

The Finance Commission of Texas met Friday, February 17, 2012, in Hearing Room E2.028, Texas Capitol Extension, 1100 N. Congress Avenue, Austin, Texas.

Members in attendance:

Bill White, Finance Commission Chair
Susan Burton, Finance Commission Member
Darby Byrd, Finance Commission Member
Victor Leal, Finance Commission Member
Stacy London, Finance Commission Member
Cindy Lyons, Finance Commission Member
Lori McCool, Finance Commission Member
Jonathan Newton, Finance Commission Member
Larry Patton, Finance Commission Member
Paul Plunket, Finance Commission Member
Jay Shands, Finance Commission Member

Others in attendance:

Doug Foster, Executive Director to the Finance Commission and Commissioner, Texas Department of Savings and Mortgage Lending (SML)
Charles Cooper, Commissioner, Texas Department of Banking (DOB)
Leslie Pettijohn, Commissioner, Office of Consumer Credit Commissioner (OCCC)
Stephanie Newberg, Deputy Commissioner, Texas Department of Banking (DOB)
Bob Bacon, Deputy Commissioner, Texas Department of Banking (DOB)
Kaylene Ray, General Counsel, Texas Department of Banking (DOB)
Jim Crowson, Assistant Attorney General, Office of the Attorney General

Finance Commission Chair Bill White announced a quorum present and called the meeting to order at 9:02 a.m. He opened the meeting by welcoming new Finance Commission Member, Mr. Victor Leal.

A. Finance Commission Matters

Review and Approval of the Minutes of the December 16, 2011, Finance Commission Meeting.

Jay Shands made a motion to approve the minutes of the December 16, 2011, Finance Commission Meeting. Cindy Lyons seconded and the minutes were adopted.

No public comments were received.

Consent Agenda

Stacy London made a motion that the Finance Commission approve consent agenda items B2 – 5; C5 – 20; D2-3. Susan Burton seconded and the motion was adopted. (A copy of the consent agenda is attached).

Finance Commission Operations

Commissioner Foster opened the discussion with an overview of legislative items and discussed the quarter reporting requested by the Senate Committee on Business and Commerce. He stated that Members were provided an email copy of the agencies' reports submitted to the Committee and that the next meeting of the Committee will be held on April 10, 2012.

He continued by reporting on the interim charges for the senate committees and specifically the Business and Commerce Committee's charge related to monitoring the implementation of HB 2592 and 2594.

Study Committee Report

Discussion of the Finance Commission Study of Fees, Costs, Interest, and Other Expenses Charged in Connection with the Transfer of Property Tax Liens.

Committee Chair Byrd opened by giving an overview regarding SB 762, requiring the study of property tax lending be conducted and a report submitted by June, 2012.

Commissioner Pettijohn provided background on the legislative mandate and detailed the responses of the proposed property tax loan study methodology from four interested stakeholders. There was discussion regarding the timeline and field work for data collection.

Audit Committee Report

Audit Committee Reviewed the Agencies' Activities. Committee Chair Lyons presented an overview of the Audit Committee deliberations from February 16, 2012.

Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' November 30, 2011, Investment Officer Reports.

Committee Chair Lyons provided an overview of the November 30, 2011, Investment Officer Reports prepared for DOB, SML and OCCC.

Committee Chair Lyons made a motion on behalf of the Audit Committee that the Finance Commission Accept the Agencies' November 30, 2011, Investment Officer Reports. A second was not needed and the motion carried.

Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' First Quarter Financial Statements.

Committee Chair Lyons provided an overview of the First Quarter Financial Statements prepared for DOB, SML and OCCC.

Committee Chair Lyons made a motion on behalf of the Audit Committee that the Finance Commission Accept the Agencies' First Quarter Financial Statements. A second was not needed and the motion carried.

Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' Investment Policies.

Committee Chair Lyons provided an overview of the Agencies' Investment Policies prepared for DOB, SML and OCCC.

Committee Chair Lyons made a motion on behalf of the Audit Committee that the Finance Commission Approve the Agencies' Investment Policies. A second was not needed and the motion carried.

Discussion of and Possible Action Regarding Personnel Matters Pursuant to Section 551.074, Texas Government Code: Deliberations with Respect to the Duties of a Person Holding the Position of Executive Director of the Finance Commission, Deliberations with Respect to the Duties of Persons Holding the Position of Agency Commissioner Positions, and Other Staff.

B. Department of Banking

Industry Status and Departmental Operations:

Commissioner Cooper provided a general overview of the agency's operations and summarized the Bank & Trust Supervision activities report. He commented on the number of problem banks which remains close to the original projections. There is slow but steady improvement in banks' ratings.

The Commissioner continued with a discussion on the recent development of the Texas Bankers Electronic Crimes Task Force. He detailed the joint efforts of office staff working with the U.S. Secret Service for the issuance of best practices designed to reduce risks of corporate account takeover. The Texas Bankers Association (TBA) and Independent Bankers Association of Texas (IBAT) sponsored a very successful webinar to discuss the Practices for Reducing the Risks of Corporate Account Takeover.

He commented on the 2011 Post Examination Survey results and noted the responses were positive overall and are now available on the agency's website.

Commissioner Cooper provided a summary of the activities of the Corporate and Special Audits divisions. He commented on the conversion application received from Frost Bank. Commission Member Newton asked for asset information and Finance Commission Chair White commended the agency for this application.

He continued with an overview of staffing and employee data, including hiring opportunities and the agency's performance measures.

Kaylene Ray provided an update on the legal division's activities. She noted there has been no recent activity involving the agency's pending litigation.

Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC §12.7 Concerning Lease Financing, 7 TAC §12.9 Concerning Aggregation and Attribution, and 7 TAC §12.10 Concerning Nonconforming Loans.

Kaylene Ray provided an overview of the proposed rules.

Stacy London made a motion that the Finance Commission publish proposed amendments to 7TAC §§12.7, §12.9 and §12.10, in the *Texas Register*. Jonathan Newton seconded and the motion was adopted.

Discussion of and Possible Action Regarding Anticipated and Pending Litigation.

State of Texas v. Stephenville Memorial Gardens, Inc.; Cause No. 30853, in the 266th District Court of Erath County, Texas.

C. Department of Savings and Mortgage Lending

Industry Status and Departmental Operations:

Commissioner Foster gave an overview of the agency's executive summary and industry profile. He highlighted the increased profitability of 63% of the thrift institutions during the 3rd quarter of 2011, and summarized the new and current annual fee assessment rates.

He discussed the mortgage lending activity detailing the number of approved and current licensees. He commented on the mortgage lending activity detailing residential mortgage loan originators and the current reinstatement period of renewals. Commission Member Plunket commented on the improvement process of new licensee programs.

Commissioner Foster provided a general overview of the consumer complaints, enforcement activity and legal issues of the agency. He discussed the agency continues to receive a high volume of license requests, and the Department anticipates meeting and exceeding the processing goal for the fiscal year.

He stated the Mortgage Industry Advisory Committee (MIAC) will meet on March 28, 2012, and the agency will be working on the strategic plan process and mortgage related rule review.

Commissioner Foster highlighted the agency's staff and employee area with one employee leaving the agency and that position would not be filled.

Commission Member Victor Leal asked for upcoming Strategic Planning meeting dates and information. Committee Chair London responded with details regarding the Committee meetings.

D. Office of Consumer Credit Commissioner

Industry Status and Departmental Operations:

Commissioner Pettijohn provided an overview of operations, including updated information for consumer protection activities and examinations. She reported on the implementation activities from legislation, including the addition of new personnel with specific note that all financial examiner positions had been filled except for one.

She noted the Texas Automobile Dealers Association (TADA) sponsored a webinar in January for franchise dealers in which OCC staff presented compliance guidance. The association received positive feedback with approximately 428 participants, which was a significant attendance level for online participation. Commission Member London inquired regarding whether the webinar could be posted as a future resource of information.

Commissioner Pettijohn summarized the agency's consumer assistance complaints detailing the Credit Access Business (CAB's) and property tax lenders information.

Commissioner Pettijohn commented on the agency's licensing report detailing the processing of 3,185 license applications, and noted the increase was due to the new CAB authorization. There was discussion with Commission Members regarding pawnshop applications, reasons for application denials, and outreach efforts for the crafted precious metals industry.

She gave an update on the agency's human resources area with new employee information and the progress of replacing other available positions. The Commissioner and Mr. Rudy Aguilar discussed the qualifications or requirements for those currently being hired.

Commissioner Pettijohn provided an overview of the agency's strategic planning developmental process. She discussed the participation of stakeholders and the Customer Engagement Survey that was sent out to customers and posted on the agency's website. Commission Member Newton recommended that all Strategic Planning groups have constituent feedback information ready to be presented by the next Finance Commission meeting in April.

Discussion of and Possible Vote to Take Action on the Publication for Comment of Amendments to 7 TAC §83.6007, Concerning Consumer Disclosures for Credit Access Businesses.

Commissioner Pettijohn provided an overview of the proposed rules.

Jonathan Newton made a motion that the Finance Commission approve for publication and comment the proposed amendments to 7 TAC §83.6007. Darby Byrd seconded and the motion was adopted.

E. Finance Commission Matters

Discussion of and Possible Action Regarding Facility Planning and Real Property Matters Pursuant to Section 551.072, Texas Government Code: Deliberations Regarding the Purchase, Exchange, Lease or Value of Real Property.

Chairman White called for an Executive Session at 11:00 a.m.

Commission Member Lyons left the Executive Session and Finance Commission meeting at 12:15 p.m.

Chairman White reconvened the Open Meeting of the Finance Commission at 12:46 p.m.

Stacy London made a motion in accordance with Section 16.007, Texas Finance Code, that the Commissioners of the Department of Banking, the Department of Savings and Mortgage Lending, and the Office of the Consumer Credit Commissioner, be authorized to borrow up to \$6,500,000 (\$3,000,000 Department of Savings and Mortgage Lending, \$2,000,000 the Office of the Consumer Credit Commissioner, and \$1,500,000 Department of Banking) for a period not to exceed five years in connection with the purchase of real property for headquarters office facilities for the operations of the Finance Commission and the three agencies.

Jonathan Newton made an amendment to the motion stating the agencies may not activate this borrowing authority without prior confirmation from the Finance Commission as to the purpose of the debt.

Lori McCool seconded and the motion was adopted by an 8-2 vote with Commission Members Byrd and Leal voting against and Member Lyons not present.

There being no further business, Commission Chair Bill White adjourned the meeting of the Finance Commission at 12:54 p.m.

Bill White, Chair
Finance Commission of Texas

Doug Foster, Executive Director of the
Finance Commission of Texas

Tammy King Wooten, Executive Assistant
Finance Commission of Texas

FINANCE COMMISSION OF TEXAS

CONSENT AGENDA 02/17/2012

Department of Banking (B2-5)

Discussion of and Possible Vote to Take Action on the Adoption of New 7 TAC §3.93, Concerning Deposit Production Offices.

Discussion of and Possible Vote to Take Action on the Adoption of Amendment to 7 TAC §15.2, Concerning Filing Fees and Cost Deposits.

Discussion of and Possible Vote to Take Action on the Adoption of Repeal of Current 7 TAC §25.11 and New 7 TAC §25.11, Concerning Record Keeping Requirements for Trust-Funded Contracts.

Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC Chapter 35, Concerning Check Verification Entities, Resulting from Rule Review.

Department of Savings and Mortgage Lending (C5-20)

Discussion of and Possible Vote to Take Action on the Adoption of Amendment to 7 TAC §51.1, concerning the Form and Content of Application to Incorporate; Requirements for Capital Stock and Paid-in Surplus or Savings Liability and Expense Fund; Payment before Opening for Business, §51.2, concerning Use of Approved Forms, and to §51.4, concerning Publication of Notice of Charter Application in conjunction with the Commission's review of Chapter 51.

Discussion of and Possible Vote to Take Action on the Adoption of Amendment to 7 TAC §53.3, concerning the Content of Branch Office Application; Filing of Another Application; Notice; Publication; Hearing; Decision, §53.10, concerning Designation of Supervisory Sale, and to §53.18, concerning Offices and Remote Service Units in Other States or Territories in conjunction with the Commission's review of Chapter 53.

Discussion of and Possible Vote to Take Action on the Adoption of Repeal of 7 TAC §53.11, concerning Remote Service Units, §53.12, concerning Authority to Establish and Use Remote Service Units, §53.13, concerning Operational Requirements for Remote Service Units, §53.14, concerning Application to Operate Remote Service Units, §53.15, concerning Notice of Remote Service Unit Application, and §53.16, concerning Approval of Application for Remote Service Unit in conjunction with the Commission's review of Chapter 53.

Discussion of and Possible Vote to Take Action on the Adoption of Amendment to 7 TAC §57.4, concerning the Application Forms in conjunction with the Commission's review of Chapter 57.

Discussion of and Possible Vote to Take Action on the Adoption of Amendment to 7 TAC §61.1, concerning the Hearings Officer in conjunction with the Commission's review of Chapter 61.

Discussion of and Possible Vote to Take Action on the Adoption of Amendment to 7 TAC §63.8, concerning the Annual Fees to do Business in conjunction with the Commission's review of Chapter 63.

Discussion of and Possible Vote to Take Action on the Adoption of Amendment to 7 TAC §64.10, concerning the Consumer Complaint Procedures in conjunction with the Commission's review of Chapter 64.

Discussion of and Possible Vote to Take Action on the Adoption of Amendment to 7 TAC §65.21, concerning the Investments in Securities in conjunction with the Commission's review of Chapter 65.

Discussion of and Possible Vote to Take Action on the Adoption of Amendment to 7 TAC §67.6, concerning the Provisions for Distribution of Earnings on Other Than Regular Accounts, §67.8, concerning the Deposit Accounts, §67.9, concerning the Provisions for Issuance of Secured or Unsecured Capital Obligations, §67.10, concerning the Joint Issuance of Capital Obligations, §67.11, concerning the Required Average Daily Balance of Liquid Assets; Failure To Meet Requirement, §67.14, concerning the Approval of the Commissioner, and §67.17, concerning the User Safety at Unmanned Teller Machines in conjunction with the Commission's review of Chapter 67.

Discussion of and Possible Vote to Take Action on the Adoption of Repeal of 7 TAC §67.16 regarding Overdraft Protection in conjunction with the Commission's review of Chapter 67.

Discussion of and Possible Vote to Take Action on the Adoption of Amendment to 7 TAC §69.5, concerning the Publication, and §69.9, concerning the Designation as Supervisory Merger, in conjunction with the Commission's review of Chapter 69.

Discussion of and Possible Vote to Take Action on the Adoption of Amendment to 7 TAC §71.1 concerning the Introduction, §71.2 concerning the Definitions, §71.3 concerning the Acquisition of an Association, and §71.6 concerning the Application for Approval of the Acquisition of Control of a Savings and Loan Association in conjunction with the Commission's review of Chapter 71.

Discussion of and Possible Vote to Take Action on the Adoption of Amendment to 7 TAC §73.2 concerning the Application in conjunction with the Commission's review of Chapter 73.

Discussion of and Possible Vote to Take Action on the Adoption of Amendment to 7 TAC Subchapter A, §75.9, concerning the application for permission to organize a state savings bank, and to Subchapter B, §75.26, concerning expedited applications in conjunction with the Commission's review of Chapter 75.

Discussion of and Possible Vote to Take Action on the Adoption of Amendment to 7 TAC Subchapter B, §77.115, concerning user safety at unmanned teller machines in conjunction with the Commission's review of Chapter 77.

Discussion of and Possible Vote to Take Action on the Adoption of Repeal of 7 TAC §77.113 regarding Overdraft Protection in conjunction with the Commission's review of Chapter 77.

Office of Consumer Credit Commissioner (D2-3)

Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC §87.102, Concerning Filing of New Application for Tax Refund Anticipation Loan Facilitators.

Discussion of and Possible Vote to Take Action on the Adoption of the Completed Rule Review of 7 TAC, Part 5, Chapter 87, Concerning Tax Refund Anticipation Loans.

This page left blank intentionally.

Rule	Short Title/Purpose	Project Date for Presentation to Finance Commission (Proposal or Adoption)	Agency
1. 7 TAC §83.6007	Consumer Disclosures for Credit Access Businesses <i>Amendments:</i> To clarify the rule's application to an existing business practice	04/20/12 adoption	OCCC
2. 7 TAC, Chapter 89	Property Tax Lenders <i>Completed Rule Review</i>	04/20/12 adoption	OCCC
3. 7 TAC, Chapter 89	Property Tax Lenders <i>Amendments and New:</i> To implement changes resulting from rule review	04/20/12 proposal	OCCC
1. 7 TAC §§12.7, 12.10, 12.9	Loans and Investments <i>Amendments:</i> To clarify certain state bank lending issues	04/20/12 adoption	TXDOB
2. 7 TAC §25.25	Prepaid Funeral Contracts <i>Amendment:</i> Change interest rate that must be paid on annuity funding a prepaid funeral contract converted from trust funding.	04/20/12 proposal	TXDOB
1. 7 TAC, Chapter 80	Texas Residential Mortgage Loan Originator <i>Rule Review</i>	04/20/12 readoption	SML
2. 7 TAC, Chapter 80	Texas Residential Mortgage Loan Originator <i>Proposed repeal to allow the department the ability to reorganize the rules, clarify existing rules and practices, and use current terminology.</i>	04/20/12 repeal	SML
3. 7 TAC, Chapter 80	Texas Residential Mortgage Loan Originator <i>Proposed New Rules - reorganized the rules, clarified existing rules and practices, and used current terminology.</i>	04/20/12 proposal	SML
4. 7 TAC, Chapter 81	Mortgage Banker Registration and Residential Mortgage Loan Officer Licensing <i>Rule Review</i>	04/20/12 readoption	SML
5. 7 TAC, Chapter 81	Mortgage Banker Registration and Residential Mortgage Loan Officer Licensing <i>Proposed repeal to allow the department the ability to reorganize</i>	04/20/12 repeal	SML

Rule	Short Title/Purpose	Project Date for Presentation to Finance Commission (Proposal or Adoption)	Agency
<i>the rules, clarify existing rules and practices, and use current terminology.</i>			
6. 7 TAC, Chapter 81	Mortgage Banker Registration and Residential Mortgage Loan Originator Licensing <i>Proposed New Rules - reorganized the rules, clarified existing rules and practices, and used current terminology.</i>	04/20/12 proposal 06/15/12	SML
1. 7 TAC §§3.36, 17.22, 17.23, 21.2, 21.9	State Bank and Trust Regulation Amendments: To update examination fees, report requirements and make corrections	06/15/12 proposal	TXDOB
2. 7 TAC, Chapter 15	Corporate Activities Amendments: To clarify various requirements	06/15/12 proposal	TXDOB
1. 7 TAC, §83.838	Loans with Multiple Advances <i>New:</i> To provide guidelines and specify the scope of Texas Finance Code, §342.455	06/15/12 proposal	OCCC
2. 7 TAC, §83.3002	Credit Access Businesses <i>Amendments:</i> To establish a licensing procedure for credit access businesses to add branch locations after licensure	06/15/12 proposal	OCCC
3. 7 TAC, §§89.102, 89.208, and 89.601	Property Tax Lenders <i>Proposed Amendments & New:</i> To provide guidelines and clarification regarding maximum interest charges and fees for closing costs	06/15/12 proposal	OCCC

Rule	Short Title/Purpose	Project Date for Presentation to Finance Commission (Proposal or Adoption)	Agency
4. 7 TAC, Part 5, Chapter 82	Administration <i>Rule Review and Amendments</i>	06/15/12 proposal	OCCC
5. 7 TAC, Part 1, Chapter 1	Consumer Credit Regulation <i>Rule Review and Amendments</i>	06/15/12 proposal	OCCC
6. 7 TAC, Part 1, Chapter 2	Residential Mortgage Loan Originators Applying for a License with the OCCC Under the SAFE Act Amendments: To update licensing fee procedures	June or August 2012 proposal	OCCC
7. 7 TAC, Part 5, Chapter 84	Motor Vehicle Installment Sales <i>Rule Review and Amendments</i>	August or October 2012 proposal	OCCC

Testimony of Leslie Pettijohn, Consumer Credit Commissioner

Before the House Pensions, Investments, and Financial Services Committee

April 3, 2012

The primary impact of the Dodd-Frank Wall Street Financial Reform Act implementation to the Office of Consumer Credit Commissioner (OCCC), its regulated financial service industries, and its consumer constituents is the establishment of the Consumer Financial Protection Bureau or CFPB.

The CFPB is charged with ensuring that consumers have timely and understandable information to make decisions; protecting consumers from unfair, deceptive, and abusive acts or practices, promoting competition through consistent enforcement; encouraging transparent and efficient markets to facilitate access and innovation; and reducing outdated or burdensome regulations.

The OCCC regulates nonbank financial service providers, as will the CFPB, under the terms of the Dodd-Frank Act. The bill intends a significant amount of coordination and interaction between the CFPB and other state and federal banking and financial regulators especially in the context of concurrent jurisdiction. An initial step towards that coordination was achieved when the CFPB entered into a Memorandum of Understanding with the states. Texas financial regulators, including the Office of Consumer Credit Commissioner, and at least 36 other states entered into the agreement with the CFPB. The agreement provides for the ability to share and exchange confidential information in the supervision of financial service providers.

As a Texas financial regulator, our interest in CFPB activities and the impact of those activities to Texans and Texas financial service providers primarily center around four functional activities:

- Regulations
- Supervision
- Consumer Response
- Education

REGULATIONS

The CFPB will promulgate rules that interpret a wide array of federal financial consumer protection laws. The impact of rules promulgated by the CFPB could broadly affect financial service providers and supervision efforts of the OCCC. In some cases, the effect could be minimal, but in others the potential effect could be significant depending upon the issue and the industry affected. Initial regulation development has been focused on implementing the terms of the Dodd-Frank Act.

Defining Larger Participant. Section 1024 of the Act provides that the CFPB may supervise covered persons in the residential mortgage, private education lending, and payday lending markets. For other markets for consumer financial products or services, the supervision program generally will apply

only to a "larger participant" of these markets, as defined by rule. The CFPB is required to issue an initial "larger participant" rule before July 21, 2012. On June 29, 2011 the CFPB issued a Notice and Request for Comment on the development of the larger participant rule. The anticipated rule will define more clearly the bounds of the concurrent jurisdiction between the OCC and the CFPB.

SUPERVISION & ENFORCEMENT

The Dodd-Frank Act authorized the CFPB to begin immediate supervision of mortgage originators and servicers, private student lenders and payday loan firms once a director was in place. The CFPB officially launched its nonbank supervision program in January. It can supervise these types of providers regardless of size. The larger participant regulation will define the other types of nonbank financial providers subject to CFPB supervision. Within the CFPB, separate directors have been appointed over bank and nonbank supervision yet examinations are generally conducted by same exam staff.

Texas falls within the Southeast region of the CFPB supervision structure and the OCC has been engaged in regular communication with the southeast region staff. Additionally the OCC has been discussing and monitoring supervision, examination, and investigation activities with the CFPB of OCC-regulated providers.

CONSUMER RESPONSE

The CFPB began taking consumer complaints relating to credit cards on 7/21/11 and complaints relating to mortgage loans on 12/1/11. As of February 22, 2012, the CFPB had received over 20,000 complaints, including nearly 7,000 on mortgages and almost 12,000 on credit cards. In February, the CFPB expanded its complaint database again to include: bank accounts; student loans; vehicle loans; and consumer loans. Any consumer who submits a complaint should expect a response to the complaint within fifteen days and final resolution of the issue within sixty. Consumers will have the ability to track progress regarding responding to the complaint via an online tool provided by the CFPB.

CFPB has been interested in the states' consumer response process and has reached out to selected states to gain more information. Texas was one of those states. OCC presented detailed information regarding its consumer complaint process to CFPB in mid-March.

CONSUMER EDUCATION AND ENGAGEMENT

In its efforts to provide consumers with information to help them make informed decisions, the CFPB has been active in developing improved disclosures and financial education. The process of development has offered many opportunities for public input on various drafts of forms. Further, the CFPB held a field hearing in January in Birmingham, Alabama engaging the industry and consumers in gathering additional information about payday loans.

As the CFPB continues its growth as an established organization, the OCC remains committed to active involvement and participation with the CFPB ensuring that Texas is represented and adequately informed regarding regulatory activities affecting our financial services market.

**QUARTERLY UPDATE TO THE
SENATE BUSINESS AND COMMERCE COMMITTEE**

April 5, 2012

BY THE OFFICE OF CONSUMER CREDIT COMMISSIONER

Implementation of Legislation from the 82nd Legislature:

HB 2592: Payday and Title Loan Disclosures

HB 2594: Payday and Title Loan Licensing

Summary of Legislation

These bills amend Chapter 393 of the Finance Code to establish new requirements for "credit access businesses," which are credit services organizations that provide payday loans or title loans. Under HB 2592, credit access businesses (CAB) are required to provide a disclosure prescribed by the Finance Commission. The disclosure must include interest, fees, and APR for the loan and a comparison of those charges to "alternative forms of consumer debt," and it must describe fees that the consumer will incur for renewing the loan. Under HB 2594, credit access businesses are required to obtain a license with the OCCC. The OCCC has examination and investigation authority over credit access businesses. HB 2594 also requires the Finance Commission to create an endowment for financial education in Texas. The bills became effective January 1, 2012.

Implementation Actions

The Finance Commission adopted model disclosures for payday and title loan contracts in December 2011. The commission also promulgated rules regarding licensing and examination of credit access businesses and adopted a rule authorizing the issuance of a 90-day provisional license to help manage the licensing process through the transition. HB 2594 further requires data reporting by the CABs. The first quarterly reports are expected to be submitted during April 2012. Consumer assistance reporting and data collection processes have been amended to include CABs and agency representatives have been trained and prepared to address consumer concerns or complaints.

An online reporting site was launched in late March 2012 allowing the CABs to submit their quarterly data. The examination process began mid-March 2012 for a limited group of CABs, but was fully operational in April. The CABs initial licensing process reached the initial 90-day mark on March 30, 2012, with 3,002 either permanently or provisionally licensed CAB locations. The consumer assistance section reports receiving 119 complaints between December 1, 2011, and March 31, 2012, and those received predominately pertain to title releases for auto title loans and fees on both types of loans.

CAB Applications	Data as of 03/30/12
Applications filed	3,451
Applications fully approved	2,579
Applications withdrawn	161
Provisional licenses issued	3,002
Remaining provisional licenses outstanding	713

HB 2490: Metal Dealers

Summary of Legislation

HB 2490 amends Chapter 1956 of the Occupations Code, requiring crafted precious metal dealers (including gold-buying businesses) to register with the OCCC. For each purchase, the dealer must complete a form listing the date of the transaction, a description of the metal product, and the name and address of the buyer and seller and then submit those transaction forms to local law enforcement authorities. If a peace officer notifies the dealer about an allegedly stolen item, the dealer will be required to hold the item for 60 days without altering or selling it. The OCCC has the authority to investigate complaints about metal dealers; consumer assistance reporting and data collection processes have been amended to include crafted precious metal dealers and agency representatives are prepared to address any received concerns or complaints. The registration requirement became effective January 1, 2012.

Implementation Actions

The Finance Commission adopted rules regarding registration of metal dealers as required by the statute. The commission also promulgated rules relating to the required data elements for each purchased precious metal transaction. The OCCC launched an online registration application in mid-December, with assistance from Department of Public Safety (TxDPS) whose experience with the metals recycling industry was adaptable to the registration requirements of the crafted precious metals industry.

Crafted precious metal dealers constitute a diverse industry with few trade associations through which the OCCC can provide information concerning registration and law enforcement reporting requirements. In recognition of this difficulty, the OCCC is currently focusing upon outreach to consumers, business owners, and law enforcement to educate concerned parties about the provisions of HB 2490. The OCCC is accepting complaints made against crafted precious metal dealers through the consumer assistance section, but the agency does not have any investigations or enforcement actions at this time. OCCC staff recently participated in a stakeholders' meeting hosted by the Houston Police Department, and the

agency is actively working to build and maintain relationships with law enforcement agencies in Texas to support compliance with the provisions of HB 2490.

Current implementation focus:

1. Education and outreach to consumers and business owners.
2. Accepting complaints made against crafted precious metal dealers.
3. Communication with local law enforcement regarding registration and reporting requirements.

Registered Precious Metal Dealers	Data as of 03/30/12
Permanent locations	1,903
Temporary locations	237
Total registered locations	2,240

SB 762: Property Tax Loan Fees

Summary of Legislation

SB 762 adds Section 351.0021 to the Finance Code, providing an exclusive list of post-closing fees that property tax lenders may charge. The bill became effective September 1, 2011. The bill also requires that the Finance Commission conduct a study of the interest, fees, and charges that are assessed by property tax lenders.

Implementation Actions

The methodology for the study was developed in February 2012 with valuable input from the State Demographer. Fieldwork to collect study data began in March 2012. The data collection fieldwork for the study is in its final stages along with the verification that the fees are in compliance with the law. A final report is expected in June 2012.

A rule review of operational rules for property tax lenders began with the first round of precomments received during the first week of April.

HB 2931: Motor Vehicle Debt Cancellation Agreements

Summary of Legislation

HB 2931 provides a new statutory framework for debt cancellation agreements on financed motor vehicles where the motor vehicle is required to be insured for property damage. A debt cancellation agreement (DCA) is an agreement in which the holder of a retail installment contract will cancel the remaining amount owed on the finance contract if the vehicle is stolen or totaled. If a DCA requires the buyer to maintain insurance on the vehicle, the holder will cancel only the difference between the insurance coverage on the vehicle and the remaining amount owed. HB 2931 adds a new subchapter to Chapter 348 of the Finance Code, detailing the provisions that may be included in a DCA that requires insurance. The bill also requires the OCCC to approve or disapprove DCA forms within 45 days after they are submitted to the agency. The bill does not affect DCAs where the buyer is not required to obtain insurance. These agreements would still have to comply with the rules that the Finance Commission adopted in 2010. HB 2931 became effective September 1, 2011.

Implementation Activities

As a result of HB 2931, existing rules relating to DCAs that required insurance were repealed, as the new provisions of HB 2931 will control these agreements. The OCCC issued a bulletin detailing the process for submission of a DCA form for review.

The agency continues to receive a steady volume of DCA submissions. Members of the legal and examination departments continue with the collaborative process of reviewing DCAs. As of March 30, 2012, DCA review status is as follows:

Debt Cancellation Agreement Review Status	Data as of 03/30/12
Approved DCAs	274
Denied DCAs	46
DCAs Pending Review	29

SB 141: Debt Management and Debt Settlement

Summary of Legislation

SB 141 amends several provisions of Chapter 394 of the Finance Code relating to debt relief providers. SB 141 applies Chapter 394 to the debt settlement model, in which consumer funds are placed into an account that the company does not control, and the company obtains concessions allowing the debt to

be settled for less than the principal amount owed. SB 141 became effective September 1, 2011, and 14 debt settlement providers have registered.

Implementation Activities

The Finance Commission has promulgated rule amendments to conform the debt management rules with the modifications made by SB 141.

The agency's consumer assistance section has received six consumer complaints from December 1, 2011, through March 31, 2012, regarding companies not making payments on behalf of the consumers.

HB 2615: Financial Literacy Resources

Summary of Legislation

HB 2615 requires the OCCC to prepare a one-page document that will give the public guidance on financial literacy classes and programs. The bill also requires HHSC agencies to make the document available to their clients. The OCCC must post the document on its website. The bill became effective September 1, 2011, and required the OCCC to post the document on its web site by December 1, 2011.

Implementation Activities

The document was developed in coordination with representatives of HHSC and posted on the OCCC website as required; a quick link is located at the top of the OCCC's home page and the web address is provided in all printable flyers and materials related to the bill. Additionally, the web address is provided in the consumer disclosure forms required by HB 2592.

Pursuant to the mandates of HB 2615, The Financial Literacy Resource page was launched on the OCCC's website on December 1, 2011. The OCCC worked with staff from Texas Health and Human Services Commission as well as interested parties from local consumer advocacy groups for input on the most helpful information to include on this resource list.

The page is monitored quarterly and is up for an update and review in June.



Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

2601 North Lamar Blvd., Austin, Texas 78705
512-475-1300 / 877-276-5554
www.dob.texas.gov

To: The Honorable Vicki Truitt, Chair
The Honorable Members of the House Pensions, Investments and Financial Services Committee

From: Charles G. Cooper, Banking Commissioner

Date: April 3, 2012

Subject: Interim Charge on Dodd-Frank Wall Street Reform and Consumer Protection Act

Implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank)¹ signed by the President on July 21, 2010, continues.

I. Dodd-Frank Provisions Implemented

- Certain provisions of the Act were not immediately effective. Provisions impacting state law that became effective on the "Transfer Date" (July 21, 2011) include the following:

Ability of State to Enforce

- If a majority of the states enact a resolution in support of a consumer protection standard, the Consumer Financial Protection Bureau (CFPB) must issue a notice of proposed rulemaking to implement that standard.[§1041]
- A state Attorney General may sue to enforce the consumer protection provisions of Title X, including regulations issued by the CFPB, subject to certain limits if the defendant is a national bank or federal savings association. A state Attorney General may sue a national bank or federal savings association to enforce the CFPB's regulations (but not the underlying statute) or any other applicable state or federal law.[§§1042(a); 1047]
- A state regulator (other than an Attorney General) with appropriate jurisdiction and authority may sue a state-chartered, incorporated or licensed entity, or another entity doing business under state law (other than a national bank or federal savings association), to enforce Title X and the CFPB's regulations.[§1042(a)]

Change in Preemption of State Laws

- Title X provides that a state consumer protection law is preempted if:
 - (i) application of the law would have a discriminatory effect on national banks or federal savings associations;
 - (ii) the law is preempted by a provision of Federal law other than the National Bank Act; or
 - (iii) in accordance with *Barnett Bank v. Nelson*, the State law "prevents or significantly interferes" with the exercise of a national bank or its powers.
- If asked to make a preemption determination, the Office of the Comptroller of the Currency (OCC) must act on a "case by case" basis, meaning the OCC determination must relate to a particular state law, but can also relate to the laws of another state with substantively equivalent terms (after consulting with the CFPB). [§§1044; 1046]

¹ All citations in brackets are references to the Dodd-Frank Wall Street Reform and Consumer Protection Act

- A preemption determination by the OCC is subject to judicial review. The court may not uphold a determination to preempt a state law unless it finds the determination is supported by substantial evidence. The court is directed to assess the validity of the preemption determination, depending upon:
 - the thoroughness evident in the agency's consideration,
 - the reasoning of the agency,
 - the consistency of the decision with other determinations, and
 - other factors the court may find persuasive. [§1044]
- State consumer financial laws (including licensing statutes) apply to national bank subsidiaries, affiliates and agents.[§§1044(e); 1045]

Consumer Financial Protection Bureau (CFPB) regulations and rules will affect not only depository institutions, but non-depository institutions as well.

- Memorandum of Understanding (MOU)
 - January 4, 2011: MOU between the Conference of State Bank Supervisors (CSBS) and the CFPB to establish and enhance the cooperative relationship between CFPB and state regulators of providers of consumer financial products and services.
 - January 11, 2011: Texas Department of Banking joined the MOU.
- Rulemaking authority over numerous consumer protection laws has been given to CFPB, which will apply to all financial institutions regardless of size, including Regulation C - Home Mortgage Disclosure (HMDA), Regulation E - Electronic Funds Transfers, Regulation G and H related to S.A.F.E. Mortgage Licensing Act, and Regulation V - Fair Credit Reporting.
- On March 13, 2012, the Department received a visit from the CFPB. The purpose of the meeting was to gain an understanding of the agency's complaint process for non-depository complaints.
- The Department participates on multiple taskforce conference calls related to CFPB matters.

II. Items that May Require Rule or Statute Changes

- By January 21, 2013, state legal lending limit must take into consideration credit exposure of derivative transactions (this can be accomplished by rule).

III. Impact on State-Chartered Banks

- Debit interchange fees (also known as swipe fees) were capped for large financial institutions (those with assets greater than \$10 billion), as mandated by the Durbin Amendment. [§1075]
- CFPB has direct supervision over all depository institutions with assets over \$10 billion. As of December 31, 2011, one state-chartered bank falls within this category.
- Rulemaking authority over numerous consumer protection laws has been given to CFPB, which will apply to all financial institutions regardless of size, including, Regulation C - Home Mortgage Disclosure (HMDA), Regulation E - Electronic Funds Transfers, Regulation G and H related to S.A.F.E. Mortgage Licensing Act, and Regulation V - Fair Credit Reporting.
- Stress Testing [§165]:
 - The Federal Reserve Board is required to conduct annual stress test of (1) bank holding companies with total consolidated assets of \$50 billion or more and (2) significant nonbank financial companies as determined by the Financial Stability Oversight Council. These institutions must also conduct their own stress test semiannually.

- State banks, state-chartered savings associations and national banks with total consolidated assets of more than \$10 billion will be required to conduct their own annual capital-adequacy stress tests.



Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

2601 North Lamar Blvd., Austin, Texas 78705
512-475-1300 / 877-276-5554
www.dob.texas.gov

To: The Honorable John Corona
Chairman of the Senate Committee on Business and Commerce

From: Charles G. Cooper, Banking Commissioner

Date: April 10, 2012

Subject: Quarterly Update on Texas Department of Banking

I. Status of the implementation of last session's key legislation.

SB 1165 – related to enforcement powers of the banking commissioner

SB 1166 and HB 3004– related to prepaid funeral benefits contracts and the prepaid funeral contract guaranty fund

SB 1167 and HB 2495– related to cemeteries and perpetual care cemetery corporations

All actions to enforce these statutes have been fully implemented, including:

- Notices regarding statutory changes have been sent to the industry; and,
- Examination procedures, related forms and contracts, internal memorandums, and rules have been updated.

II. Issues of interest to the committee members that have occurred since the end of special session.

A. Texas State-Chartered Bank Information:

	June 30, 2011	December 31, 2011
Number of Insured Depository Institutions	309	302
Assets (billions)*	\$164.6	\$170.4
Net Loan Volume (billions)*	\$96.2	\$98.1
Problem Banks**	54	49

*FDIC financial data for insured institutions.

**The Department defines problem banks as any financial institution with a composite rating of "3", "4" or "5".

- Troubled Asset Relief Program (TARP) – Eighty of our banks applied to participate in the Capital Purchase Program under TARP. However, after significant withdrawals, only 21 banks received funds totaling \$2.8 billion, with one bank receiving about 80% of this total. As of March 15, 2012, nine banks have not repaid any of their TARP funds. The total outstanding amount is approximately \$311 million.
- Small Business Lending Fund (SBLF) – Twenty-three Texas state-chartered banks applied for funds under this program. Twelve banks received funds totaling \$255.7 million. One approved bank decided not to accept the funds (\$40 million). The remaining banks either withdrew their applications or their applications were denied.
- Texas had one bank failure in 2011. First International Bank, Plano, Texas failed on September 30, 2011.
- Financial institutions, primarily border banks, continue to oppose the Internal Revenue Service and Department of Treasury's proposal to require reporting deposit interest paid

to nonresident aliens [REG 146097-09]. A subcommittee of the House Financial Services Committee held a hearing on the proposed regulation in October.

B. Federal Law Changes Effective July 21, 2011:

Certain provisions in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank)¹ were not immediately effective when Dodd-Frank was enacted in July 2010. Among those provisions that affect state law and became effective on the "Transfer Date" (July 21, 2011) include the following:

1. Ability of State to Enforce

- If a majority of the states enact a resolution in support of a consumer protection standard, the Consumer Financial Protection Bureau (CFPB) must issue a notice of proposed rulemaking to implement that standard.[§1041]
- A state Attorney General may sue to enforce the consumer protection provisions of Title X, including regulations issued by the CFPB, subject to certain limits if the defendant is a national bank or federal savings association. A state Attorney General may sue a national bank or federal savings association to enforce the CFPB's regulations (but not the underlying statute) or any other applicable state or federal law.[§§1042(a); 1047]
- A state regulator (other than an Attorney General) with appropriate jurisdiction and authority may sue a state-chartered, incorporated or licensed entity, or another entity doing business under state law (other than a national bank or federal savings association), to enforce Title X and the CFPB's regulations.[§1042(a)]

2. Change in Preemption of State Laws

- Title X provides that a state consumer protection law is preempted if:
 - (i) application of the law would have a discriminatory effect on national banks or federal savings associations;
 - (ii) the law is preempted by a provision of Federal law other than the National Bank Act;
 - or
 - (iii) in accordance with *Barnett Bank v. Nelson*, the State law "prevents or significantly interferes" with the exercise of a national bank or its powers.
- If asked to make a preemption determination, the Office of the Comptroller of the Currency (OCC) must act on a "case by case" basis, meaning the OCC determination must relate to a particular state law, but can also relate to the laws of another state with substantively equivalent terms (after consulting with the CFPB). [§§1044; 1046]
- A preemption determination by the OCC is subject to judicial review. The court may not uphold a determination to preempt a state law unless it finds the determination is supported by substantial evidence. The court is directed to assess the validity of the preemption determination, depending upon:
 - the thoroughness evident in the agency's consideration,
 - the reasoning of the agency,
 - the consistency of the decision with other determinations, and
 - other factors the court may find persuasive. [§1044]
- State consumer financial laws (including licensing statutes) apply to national bank subsidiaries, affiliates and agents.[§§1044(e); 1045]

III. Issues of interest to the committee members.

- Implementation of Dodd-Frank Continues

¹ Unless otherwise indicated, citations in brackets are references to the Dodd-Frank Wall Street Reform and Consumer Protection Act.

- CFPB regulations and rules will affect not only depository institutions, but non-depository institutions as well.
- On March 13, 2012, the Department received a visit from the CFPB. The purpose of the meeting was to gain an understanding of the agency's complaint process for non-depository complaints.
- By January 21, 2013, state legal lending limit must take into consideration credit exposure of derivative transactions (this can be accomplished by rule).
- Implementation of a proposal to include money services businesses in national database registration and license renewal system will require changes to Texas statutes to enable a third-party to act as a fingerprint channeling agent for national criminal background checks.

IV. Impact on State-Chartered Banks

- Debit interchange fees (also known as swipe fees) were capped for large financial institutions (those with assets greater than \$10 billion), as mandated by the Durbin Amendment. [§1075]
- CFPB has direct supervision over all depository institutions with assets over \$10 billion. As of December 31, 2011, one state-chartered bank falls within this category.
- Rulemaking authority over numerous consumer protection laws has been given to CFPB, which will apply to all financial institutions regardless of size, including Regulation C - Home Mortgage Disclosure (HMDA), Regulation E - Electronic Funds Transfers, Regulation G and H related to S.A.F.E. Mortgage Licensing Act, and Regulation V - Fair Credit Reporting.
- Stress Testing [§165]:
 - The Federal Reserve Board is required to conduct annual stress test of (1) bank holding companies with total consolidated assets of \$50 billion or more and (2) significant nonbank financial companies as determined by the Financial Stability Oversight Council. These institutions must also conduct their own stress test semiannually.
 - State banks, state-chartered savings associations and national banks with total consolidated assets of more than \$10 billion will be required to conduct their own annual capital-adequacy stress tests.



Douglas B. Foster
Commissioner

TEXAS

DEPARTMENT OF SAVINGS & MORTGAGE LENDING

House Committee on Pensions Investments and Financial Services

3 April 2012

★ Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010

- ❖ TITLE III • Section 313 The Office of Thrift Supervision (OTS) the federal regulator for thrift institutions was eliminated in July 2011.
 - ❖ Of the 17 federal thrift charters in Texas at that time, three have converted to a state savings bank charter to still have a dedicated thrift regulator. Two additional charter conversions to the state savings bank system are anticipated.
- ❖ TITLE X • Section 1022 CFPB rulemaking and interpretive authority over 18 consumer protection statutes:
 - ❖ Alternative Mortgage Transaction Parity Act
 - ❖ Community Reinvestment Act
 - ❖ Consumer Leasing Act
 - ❖ Electronic Funds Transfer Act
 - ❖ Equal Credit Opportunity Act
 - ❖ Fair Credit Billing Act
 - ❖ Fair Credit Reporting Act
 - ❖ Fair Debt Collection Practices Act
 - ❖ Federal Deposit Insurance Act, subsections 43(c)-43(f)(12)
 - ❖ Graham-Leach-Bliley Act, sections 503-509
 - ❖ Home Mortgage Disclosure Act
 - ❖ Home Ownership and Equity Protection Act
 - ❖ Real Estate Settlement Procedures Act
 - ❖ SAFE Mortgage Licensing Act

- ❖ Truth-in-Lending Act
 - ❖ Truth-in-Savings Act
 - ❖ Omnibus Appropriations Act, section 626
 - ❖ Interstate land Sales Full Disclosure Act
- ❖ TITLE XIV • Section 1401(2) Seller Finance HUD 's authority to interpret and enforce the federal SAFE Act was transferred to the CFPB
- ❖ After waiting 18 months to issue interpretive rules implementing the federal SAFE Act, HUD issued just three days prior to the transfer of that authority to the CFPB.
 - ❖ As a result of these interpretations reversing HUD's earlier guidance, the department discontinued the requirements for governmental entities and their employees and employees of bona fide non-profits to be licensed.
 - ❖ HUD's interpretation also indicated a willingness to allow each state to determine what an appropriate seller finance de minimis based on their own definition of "habitualness or repetition"
 - ❖ Dodd-Frank specifies 3 transactions for de minimis.
- ❖ The CFPB now holds the authority for SAFE Act determination if an individual state is meeting the standards to warrant activity without federal oversight.
- ❖ Our department was the 9th state to achieve accreditation for mortgage supervision, which HUD indicated would be a standard they would recognize without further review.
 - ❖ CFPB has not confirmed HUD's July 2011 interpretations and has sent each state a letter saying they will not take up the issue any earlier than 2013.



Douglas B. Foster
Commissioner

TEXAS DEPARTMENT OF SAVINGS & MORTGAGE LENDING

Senate Committee on Business and Commerce Second Quarter 2012 Agency Update

- 82nd Texas Legislature - All implementing rules associated with statutory changes have been completed.
- Chapter 158 Third Party Mortgage Servicers - This new statute requires disclosure to the consumer on where to file a complaint only when acquiring mortgage loan servicing. Therefore existing customers may never receive such notice. The department has begun outreach efforts with various consumer advocacy groups and asked servicers to voluntarily notify through normal correspondence avenues.
- AG Mortgage Servicing Settlement - The department signed on to the settlement agreement and as a result will receive approximately \$500,000. It is the intent at this time to provide these funds in some way to the Finance Commission of Texas Financial Literacy Endowment Fund. We are also exploring additional ways to assist Texas citizens to file claims for the funds set aside for negative equity, wrongful foreclosure and current loss mitigation.
- Dodd-Frank Wall Street Reform Act - Federal thrift institutions continue to engage in conversations about possible charter conversions.

This page left blank intentionally.

Office of Consumer Credit Commissioner

Mid-Year Accomplishment Report

April 1, 2012

1. LEGISLATIVE

1.1. Mandated Studies.

1.1.1. Objective: Legislative Interim Studies. The agency expects to participate in interim studies and provide resource information and research. Generally interim studies in each house encompass some area within the agency's jurisdiction or area of knowledge. During the legislative session, the chairs of the respective oversight committees indicated an interest in continuing to study credit access businesses during the interim.

Measure: Response to requested resource information. Regular communication with the Finance Commission regarding interim legislative activity.

Status: *The OCCC has provided or expects to provide resources and testimony on the following legislative charges:*

House Pensions, Investments, & Financial Services (PIFS) – Credit Access Businesses (CABs)

House PIFS – Dodd-Frank Wall Street Financial Reform Act – hearing held 4/3/12

Senate Business and Commerce (B & C) – Credit Access Businesses – hearing scheduled for 8/14/12

Senate Intergovernmental Relations – Property tax lending – hearing scheduled for 5/24/12

Further the agency expects to regularly update the respective oversight committees regarding the agency's operations and activities. Written quarterly updates were filed with the Senate B & C committee in January and April.

2. REGULATORY ACTIVITIES

2.1. Credit Access Businesses.

2.1.1. Objective: Licensing. Implement the provisions of HB 2592 and HB 2594. Establish a licensing process that permits the filing of applications before November 1, 2011. Hire additional permanent and temporary licensing staff. Manage licensing process to accommodate as many full approvals or conditional approvals as feasible prior to the January 1, 2012 effective date. Engage in appropriate communication strategies to educate providers about the January 1, 2012, effective date.

Measure: Reporting on licensing and application activities.

Status: *The agency launched its CAB licensing process in early November 2011. Significant stakeholder engagement contributed to the development of the process as well as to education of providers prior to the January 1, 2012, effective date. Administrative rules were promulgated to guide the process and allow for provisional licensing as a transition. Education of providers regarding the effective date appears to have been successful. Of the 3,451 total applications received as of March 31, 2012, 92% were received prior to January 1. The remainder were received under the rules allowing for a 90 day transition period. Two permanent and one temporary staff member and four temporary contract staff augmentation technicians were deployed to process the applications. In excess of 95% of applications received by December 31, 2011, had full or provisional approval prior to the January 1, 2012, effective date.*

2.1.2. Objective: Examination. Develop examination process, policies, and procedures for payday lending and auto title lending. Hire and train new examination staff for the activity. Implement examination program in spring of 2012.

Measure: Reporting on examination activities including the number of examinations of credit access businesses performed.

Status: *The Finance Commission adopted model disclosures for payday and title loan contracts in December 2011. HB 2594 further requires data reporting by the CABs. The first quarterly reports are expected to be submitted during April 2012. Consumer assistance reporting and data collection processes have been amended to include CABs and agency representatives have been trained and prepared to address consumer concerns or complaints.*

An online reporting site was launched in late March 2012 allowing the CABs to submit their quarterly data. Five new examiners for CAB activity were hired in January 2012 and began initial classroom training. The examination manual was updated and refined to include procedures on examining credit access businesses. The examination process began mid-March 2012 for a limited group of CABs, but became fully operational in April.

2.2. Crafted Precious Metal Dealers.

2.2.1. Objective: Registration. Implement the provisions of HB 2490. Establish an online registration system. Engage in appropriate communication strategies to educate dealers about the January 1, 2012, effective date.

Measure: Reporting on registration activities.

Status: *The Finance Commission adopted rules regarding registration of metal dealers as required by the statute. The commission also promulgated rules relating to the required data elements for each purchased precious metal transaction. The OCCC launched an online registration application in mid-December, with assistance from Department of Public Safety (TxDPS) whose experience with the metals recycling industry was adaptable to the registration requirements of the crafted precious metals industry.*

Crafted precious metal dealers constitute a diverse industry with few trade associations through which the OCCC can provide information concerning registration and law enforcement reporting requirements. In recognition of this difficulty, the OCCC is currently focusing upon outreach to

consumers, business owners, and law enforcement to educate concerned parties about the provisions of HB 2490. The OCCC is accepting complaints made against crafted precious metal dealers through the consumer assistance section, but the agency does not have any investigations or enforcement actions at this time. OCCC staff recently participated in a stakeholders' meeting hosted by the Houston Police Department, and the agency is actively working to build and maintain relationships with law enforcement agencies in Texas to support compliance with the provisions of HB 2490.

2.3. Motor Vehicle Sales Finance (MVSF).

2.3.1. Objective: Improve compliance. Continue the priority of improving compliance ratings. Complete 1,300 examinations of Motor Vehicle Sales Finance entities. Conduct presentations to dealer trade groups regarding compliance issues. Monitor follow-up and restitution orders for licensees with outstanding examination issues.

Measure: Number of motor vehicle exams completed. Report the rate of satisfactory compliance. Report the amount of restitution returned to consumers as a result of MVSF examinations.

Status: As of February 2012, 661 motor vehicle exams were conducted representing 51% of the targeted FY '12 performance. The level of compliance this fiscal year has increased from 64.33% in the first quarter to 68.61% at the end of the second quarter. The combined compliance rate for FY '12 of 66.67% notes a slight improvement from FY '11 rate of 65.41%. Restitution to consumers as a result of MVSF examinations equals 9.3 million dollars. Agency staff has conducted eight presentations in person to dealer groups and one webinar focusing on compliance.

2.3.2. Objective: Debt Cancellation Agreements (DCA). Implement the provisions of HB 2931. Develop policy and standards to review filed agreements. Timely and efficiently review submitted agreements.

Measure: Reporting on the formulation of policy and standards. Percentage of agreements reviewed within statutory 45 day timeframe.

Status: As a result of HB 2931, existing rules relating to DCAs that required insurance were repealed, as the new provisions of HB 2931 will control these agreements. The OCCC issued a bulletin detailing the process for submission of a DCA form for review.

The agency continues to receive a steady volume of DCA submissions. Members of the legal and examination departments continue with the collaborative process of reviewing DCAs. The agency processed 98.8% of the agreements within the 45 day statutory time frame. As of March 30, 2012, DCA review status is as follows:

Debt Cancellation Agreement Review Status Data as of 03/30/12	
Approved DCAs	274
Denied DCAs	46
DCAs Pending Review	29

2.3.3. Objective: Documentary Fee Review. Refine review process to ensure more complete data submissions from licensees. Accelerate staff responses and improve the efficiency of evaluation of submitted material.

Measure: Reporting on the review process and number of submissions.

Status: The agency has received 3,047 documentary fee filings. Of those filings, 955 have been closed, withdrawn, or identified as duplicates, leaving 2,092 net filings. Seventy percent of the filings are at or below the safe harbor threshold of \$125. The agency continues to work through and review detailed filings above \$125. In most cases, the filings require a significant exchange of correspondence to obtain sufficient and adequate financial information to review and determine the reasonableness of the documentary fee.

3. POLICY AND RULE DEVELOPMENT

3.1. Agency Rules.

3.1.1. Objective: Rule Review. Review all rules related to Chapter 87 (Refund Anticipation Loan Facilitators) and Chapter 89 (Property Tax Lenders). Propose necessary modifications to existing rules.

Measure: Adoption of rule review and proposal of modifications to existing rules.

Status: *The rule review and associated amendments for Chapter 87 (Refund Anticipation Loan Facilitators) were adopted by the Finance Commission in February 2012. Work has begun on the Chapter 89 rule review with the first round of precomments being received in the first week of April 2012.*

4. CONSUMER ISSUES / COMMUNICATION & OUTREACH STRATEGIES

4.1. Consumer Education.

4.1.1. Objective: Financial Literacy. Implement the provisions of HB 2615. Develop a resource document for use in providing financial literacy programs and resources for distribution to clients of Texas health and human service agencies.

Measure: Document development and website posting by December 1, 2011.

Status: *Pursuant to the mandates of HB 2615, The Financial Literacy Resource page was launched on the OCCC's website on December 1, 2011. The OCCC worked with staff from Texas Health and Human Services Commission as well as interested parties from local consumer advocacy groups for input on the most helpful information to include on this resource list. A quick link is located at the top of the OCCC's home page and the web address is provided in all printable flyers and materials related to the bill. Additionally, the web address is provided in the consumer disclosure forms required by HB 2592.*

The page is monitored quarterly and is up for an update and review in June.

4.2. Industry Education.

- 4.2.1. Objective:** Launch on-demand introductory compliance training module for motor vehicle dealers. Evaluate effectiveness and refine.

Measure: Reporting on industry education activities and training module metrics.

Status: *The first module was provided online in early FY '12. The agency continues to receive comments from motor vehicle dealers and agency staff regarding opportunities for further enhancement of both content and technology.*

- 4.2.2. Objective:** Host a compliance seminar for motor vehicle dealers.

Measure: Reporting on industry education activities.

Status: *The agency enforcement and licensing departments participated in a webinar sponsored by Texas Automobile Dealers Association during February 2012. The participation level was exceptionally high. Positive comments and feedback have been received regarding the value of content provided and the ability to engage in real-time discussions with agency personnel; the agency will continue to explore this model of communication with motor vehicle dealers.*

5. AGENCY MANAGEMENT

5.1. Performance Measures.

- 5.1.1. Objective:** Performance Targets. Meet or exceed 80% of key performance targets within $\pm 5\%$ of the projected target.

Measure: Attainment of 7 out of 9 key performance targets. Attainment results when the performance equals or exceeds 95% of the projection.

Status: *The agency met or exceeded 6 of 9 key performance targets within $\pm 5\%$. Performance is expected to improve related to several key performance measures within the 3rd and 4th quarters.*

5.2. Human Resources.

- 5.2.1. Objective:** Personnel. Retain qualified personnel. Continue to study and develop innovative ways to retain staff. Administer compensation system for examiner levels to improve retention and maintain competitiveness.

Measure: Reporting on actions to improve staff retention. Report turnover ratio for FY '12.

Status: *During the strategic planning process, the agency has identified staff retention and compensation as a priority and is working toward defining and refining career ladder structures and ensuring competitiveness of salaries. The turnover ratio for FY '12 to date is 4.5%.*

5.3. Education.

5.3.1. Objective: Staff Training. Promote opportunities for staff professional development. Ensure that examiners receive a minimum of 30 hours of continuing education. Ensure that at least 50% of administrative staff receive an opportunity to attend an appropriate outside training course.

Measure: Reporting on training opportunities and attainment of minimum exam staff training and administrative staff training opportunities.

Status: *Nearly 40% of administrative staff members have attended training opportunities related to job skills and competencies. The agency plans to include specific training in its June staff conference related to technology applications and supervisory skills in response to staff requests. Examiner training consisted of the initial training phase of the new Examiner I class and the annual examiner training conference which was held in September.*

5.4. Financial and Self-Directed, Semi-Independent Status.

5.4.1. Objective: Provide proper financial management to ensure that the agency's revenues and expenditures are appropriate and balanced and in compliance with Finance Commission policies and approved budget levels.

Measure: Review internal financial statements and variances on a monthly basis. Submit quarterly financial data relating to the agency's financial position and operating reserve for review by the Finance Commission.

Status: *The agency monitors and timely reviews the financial status through monthly Operating Statements and Budget Analysis reports. These reports are also reviewed on a quarterly basis by the Finance Commission. Financial performance in the first two quarters is well within the budgeted levels as established by the Finance Commission.*



Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

2601 North Lamar Blvd., Austin, Texas 78705
512-475-1300 / 877-276-5554
www.dob.texas.gov

MEMORANDUM

TO: The Finance Commission

FROM: Charles G. Cooper, Commissioner

DATE: April 9, 2012

RE: Department of Banking Priorities for Fiscal Year 2012 – with Updates Through February 29, 2012

I. LEGISLATIVE – State and National Legislative Issues

I.1 Objective: Respond positively and actively, providing appropriate and comprehensive resource material as requested.

Measure: To the extent legally permissible, respond accurately and timely to all requests for resource information. Maintain contact with legislative committee chairs and staff.

- *Prepared quarterly updates for Senate Business & Commerce Committee*
- *Prepared testimony for House Pensions, Investments & Financial Services Committee hearing on Dodd-Frank interim charge*

I.2 Objective: Maintain accurate, timely, and complete communication with Finance Commission members about significant legislative issues and events (testimony and committee meetings) as well as conditions, trends and significant events in the industries the agency supervises.

Measure: Timely notification to Finance Commission members of committee meetings, hearings and other items of interest when known. Keep members informed of significant federal laws and policy statements and how supervised entities are affected. Provide sufficient information and materials to give Commission members an overall assessment of our regulated industries.

- *Industry and economic updates provided at each Finance Commission meeting and emails sent for important current events*

II. REGULATORY ACTIVITIES – *Examination Activity, Number of Exams, Enforcement Actions*

- II.1 Objective: Meet performance measures relating to performing examinations when due and processing applications within required timeframes.

Measure: Continue to meet or exceed the minimum 95% attainment for the performance measures. Quarterly, report results to the Finance Commission. Ensure that every problem institution has an effective administrative or enforcement action to address current and potential problems.

- *Met or exceeded all four key output performance measures*
- *Measures reported quarterly at Finance Commission meetings*

- II.2 Objective: Remain active and involved at the national level on supervisory issues affecting banking, money services business activities, trust services and other areas of direct supervisory oversight in Texas.

Measure: Maintain active contact with other states individually and through regulatory associations (CSBS and MTRA), trade associations (IBAT and TBA) and frequent contact with federal regulators so as to be aware of events, decisions, other state and federal policies and other areas of actual or potential impact on the Department's regulatory functions or the industry. Remain active in the non-bank financial institution subcommittee of FinCEN's Bank Secrecy Act Advisory Group. Take proactive steps to respond as issues arise affecting the industries or our supervisory duties.

- *Agency remains active in all of the listed organizations, participating on numerous committees serving in officer capacities and attending and speaking at meetings, events, conferences, outreach programs and educational symposiums*
- *Participated in CSBS workgroups on:*
 - *Consumer Financial Protection Bureau (CFPB) confidentiality*
 - *Expansion of the Nationwide Mortgage Licensing System (NMLS) to allow for the registration of non-depository entities*
 - *Expansion of NMLS background checking system*
 - *CFPB streamlining project*
 - *Derivatives and legal lending limits*
- *Participated in IRS workgroup on performing IRS/State concurrent MSB examinations*
- *Staff works closely with neighboring regulators*

- II.3 Objective: Maintain an ongoing awareness of our bank and trust entities' risk profiles and the condition of the economies in which they operate. Continue ongoing monitoring of individual or systemic conditions that present risks to their financial stability. Monitor and take necessary actions against problem institutions.

Measure: Maintain off-site monitoring program of bank and trust industries while initiating appropriate regulatory responses and actions when applicable. Research and take required actions against problem institutions to minimize the adverse impact on depositors, shareholders and the banking system in general.

- *Off-site monitoring efforts continue to be based on reviews of financial information provided from Uniform Bank Performance Reports*
- *Regional offices' offsite monitoring reports are reviewed at Headquarters and used to prepare the bank watch list*
- *94 banks rated one or two were identified and are receiving follow-up review*

II.4 Objective: Monitor emerging issues in our areas of regulation and determine and communicate impact to the regulated entities.

Measure: Report on emerging issues to the Finance Commission and regulated entities. Participate in industry meetings and seminars. Continue to be involved in speaking opportunities with these regulated industries to provide updates related to ongoing regulatory issues.

- *Emerging issues reported to the Finance Commission at each meeting*
- *Periodic announcements sent to regulated entities*
- *Agency staff attended and spoke at regulatory panels, banking schools, association meetings, literacy webinars, and industry, trade and governmental conferences and events*
- *In conjunction with the Secret Service issued best practices to reduce risks of corporate account takeover*
- *Assisted Texas Department of Agriculture in assessing applications for small business lending federal grants*

II.5 Objective: Special Audits Division should remain diligent in monitoring for illegal activity.

Measure: Monitor for and investigate illegal activity, and when necessary, initiate appropriate regulatory enforcement actions against licensed and/or unlicensed entities to ensure compliance with applicable rules and regulation to protect the rights and interests of consumers.

- *Notified five MSB entities that may be engaged in money transmission without a license, as a result:*
 - *One company filed an application to obtain a license*
 - *Four companies responded with arguments and documentation that they do not need a license – information provided is currently being reviewed by the Department*
- *One PCC fined for failing to set markers timely*
- *Enforcement action taken against three funeral homes for selling PFCs without a license*

- II.6 Objective: Continue to process consumer complaints/inquiries professionally, appropriately and timely.

Measure: Periodically report to the Finance Commission on the complaints/inquiries received.

- *Issued Consumer Fraud Alert and provided copy to Finance Commission members*
- *Compliant activity recap provided at each Finance Commission meeting*

III. POLICY AND RULE DEVELOPMENT – *Internal and External Policies and Rules*

- III.1 Objective: Continue to develop and refine examination procedures and reference materials to enhance the examination process.

Measure: Monitor regulatory changes and update examination materials in a timely manner. Timely and regularly communicate updates/changes to examiners.

- *Updated Examination Procedures:*
 - *25 Commercial and 12 reference materials*
 - *6 Information Technology (IT) and all reference materials*
 - *13 Trust and three reference materials*
- *Created 1 new Trust examination procedure*
- *Adopted the Uniform MTRA Rating System for MSB examinations*
- *Modified procedures and revised renewal forms for the PCC industry to address statutory changes*

- III.2 Objective: Issue formal communications to regulated industries to clarify and/or promote best practices to assist in complying with laws and policy statements.

Measure: Timely issue Supervisory Memorandums, Regulatory Guidance and Legal Opinions.

- *Updated 5 Administrative Memorandums*
- *Updated 4 Supervisory Memorandums (SM) and released a new SM for the Risk Management of Corporate Account Takeover*
- *Revised 3 Examiner Bulletins – Commercial, IT, and Trust*

- III.3 Objective: Monitor and modify Texas Administrative Code rules as necessary to reflect changes in state and federal laws and address the dynamics of the changing industries.

Measure: Amend rules and adopt new rules as necessary to timely effect necessary changes. Conduct rule reviews every four years to evaluate necessity of current rules.

- *Completed rule review of 7 TAC Chapters 15, 17, 19, 21, 35*
- *Added a new rule establishing requirements for deposit production offices*
- *Adopted a filing fee for applications for release from prohibition order*

- *Updated recordkeeping requirements for prepaid funeral contract sellers*
- *Proposed amendments to rules on legal lending limits*

IV. AGENCY MANAGEMENT – *Staffing, Recruiting, Fiscal Responsibility, and Technology*

- IV.1 Objective: Remain active in recruiting qualified personnel while strengthening the diversity of the workforce whenever possible. Maintain compliance with all state and federal employment laws.

Measure: Actively recruit entry level positions at state universities and colleges by attending no less than six job fair events. Promptly post vacancies for experienced or mid to high level positions both internally and externally. Continue the work preference style screening to improve employee hiring and retention.

- *Attended 14 career fairs of which 4 were minority universities*
- *Opened 10 postings, interviewing 47 applicants*

- IV.2 Objective: Maintain full staffing, with an increased emphasis on employee retention and staff diversity. Continue efforts to be proactive in competitive salary administration.

Measure: Continue to improve examination staff retention by addressing major issues that contribute to non-retirement resignations, with a goal to have turnover not exceed 8% for fiscal year 2012. Maintain competitive salary program compared to the FDIC by maintaining a minimum 90% level of equivalence.

- *Agency turnover through February 29, 2012 is 5.9% or 11 FTEs*
- *Financial examiner turnover through February 29, 2012 is 7.3% or 10 FTEs. Of these 10, 3 retired and 3 resigned in lieu of involuntary separation*

- IV.3 Objective: Have up-to-date computer hardware and software to enhance the effectiveness, speed and quality of the work products that are compatible with our federal counterparts. Provide timely technical support to staff.

Measure: Provide technology tools necessary for staff to efficiently and effectively perform their job functions. Ensure network and website function without prolonged downtimes. Maintain technology help desk and timely train staff on any new software applications.

- *Upgraded Regional Offices' file and print servers, and headquarters' email, file and print servers*
- *Upgrading our data network and the regional offices internet data lines to 10 MB*
- *Replacing 70 laptops this fiscal year*

- IV.4 Objective: Ensure financial examiners receive adequate and proper training to perform their duties and progress within the financial examiner series to become commissioned.

Measure: Provide core required training courses to financial examiners in the FE I – FE III series so they can progress in the financial examiner series. Prepare examiners adequately to pass commissioning test. Commission at least four examiners this fiscal year.

- *Amended Department training policy to emphasize the need for examiners to progress through the Bank Examination Testing System (BETS) and become commissioned examiners*
- *Developed training plans for examiners that have not become commissioned in the typical progression time*

IV.5 Objective: Ensure agency expenditures are necessary and prudent and within budgetary constraints and that revenues collected are adequate to cover expenditures and provide a cash reserve or fund balance that complies with Finance Commission policies.

Measure: Review expenditure and revenue patterns monthly. Prepare quarterly financial statements to substantiate the agency's financial position and cash reserve.

- *Financial statements presented quarterly to the Finance Commission*
- *Total revenues at 100.3% of budget*
- *Total expenditures at 91.3% of budget*
- *Cash reserve within policy guidelines*

As Commissioner, my overriding objective continues to be for the Banking Department to be considered the top financial regulator by the industries we regulate, as well as our regulatory peers and counterparts, and the top employer by our personnel. The culmination and achievement of the aforementioned goals will help achieve this objective.



Douglas B. Foster
Commissioner

TEXAS DEPARTMENT OF SAVINGS & MORTGAGE LENDING

MEMORANDUM

To: The Texas Finance Commission

From: Doug Foster, Commissioner *Douglas B Foster*

Date: March 30, 2012

Re: Department of Savings and Mortgage Lending Priorities for Fiscal Year 2012

I. Legislative Issues

- I.1 *Objective:*** Translate legislation that may affect the agency or its regulated entities into implementing rules as well as performing rule review on all agency activities over the fiscal year.

Measure: Provide information to Finance Commission members, MIAC, and impacted constituents on proposed rules and rule review.

Status: SB17 relating to the regulation of third party residential mortgage loan servicers; providing an administrative penalty. Adopted creation of new rules found in 7 TAC 79 by the Finance Commission of Texas at its December 16, 2011 meeting. These new rules provide 1) definitions, 2) how to register, 3) timely disclosure required to consumers on how to file a complaint, as well as procedures for the Department to investigate consumer complaints, 4) due process for appeals and hearings held under this chapter. Authority is primarily reactive to the filing of a consumer complaint. The Department is authorized to participate in any multi-state examination of a registered residential mortgage loan servicer.

SB 1124 related to statutory conflicts resulting from the passage of HB 10 (the Texas SAFE Act of 2009) and providing penalties. Adopted amendments to rules found in 7 TAC 80 and 7 TAC 81 by the Finance Commission of Texas at its October 21, 2011 meeting. Primarily non-substantive changes reconciling language, except for amendment to 80.301, reestablishing the exemption for an "owner of real property who in any 12-consecutive-month period makes no more than five Residential Mortgage Loans to purchasers of the real property for all or a part of the purchase price of that same real property."

Department of Savings and Mortgage Lending
Priorities for Fiscal Year 2012

HB 558 relates to payoff statements requested by title companies to mortgage servicers in connection with certain home loans. Adopted creation of new rules found in 7 TAC 155 by the Finance Commission on December 16th following extensive stakeholder involvement.

- I.2 **Objective:** Respond positively and actively, providing appropriate and comprehensive resource material to the Governor's Office, committee chairs and other members of the Texas Legislature on subjects of interest.

Measure: Notify Finance Commission members about any interim charges or testimony; retain written contact with committee chairs, members and staff; respond to requests for resource information as requested.

Status: In January the Senate Committee on Business and Commerce initiated a new practice of asking agencies to submit quarterly activity reports without any testimony focused primarily outcomes of recent legislation. Our printed material for the hearing was provided to the Finance Commission members. The only interim charge associated with our agency is from the House Pensions Investments and Financial Services Committee seeking an update on Dodd-Frank implications.

II. Regulatory Issues

- II.1 **Objective:** Continue to closely monitor our savings banks' risk profiles and the economic conditions in which they operate. Continue ongoing monitoring of both individual and systemic conditions that present risks to their financial security through our offsite financial information software and onsite presence.

Measure: Maintain off-site monitoring program of savings banks while initiating appropriate regulatory responses and enforcement actions when applicable.

Status: The Department is actively engaged in determining and taking appropriate supervisory or enforcement responses to on-site examinations and off-site review. Compliance with enforcement actions is monitored through quarterly reports from the banks and on-site visitations and examinations.

- II.2 **Objective:** Continue to coordinate, promote, participate in, and utilize the enhanced communication among applicable federal, state, and local agency investigation staffs, including the Attorney General's Mortgage Fraud Task Force, TREC and TDI, to expedite final resolution of regulatory concerns.

**Department of Savings and Mortgage Lending
Priorities for Fiscal Year 2012**

Measure: Department representatives to continue attending the Mortgage Fraud Task Force meetings. Quantify the number of cases referred to and from the various agencies and the Mortgage Fraud Task Force.

Status: The Mortgage Fraud Task Force has not held a meeting in the past six months. The Department has received 45 reports of suspected fraudulent activity from task force members and has referred 32 cases to the Office of the Attorney General. The sharing of information and communication between the task force agencies remains consistent.

II.3 Objective: Retain the prompt resolution time on consumer complaints.

Measure: Compare current case aging data to prior fiscal years. Regularly review all complaints over 90 days to identify problems in closing investigation.

Status: The Department has continued to maintain acceptable case aging on consumer complaints during the first half of fiscal year 2012. At the end of fiscal year 2011 (8/31/11), 90.4% of open consumer complaints were aged 120 days or less compared to the end of 2nd quarter fiscal year 2012 (2/29/12), 93% of open consumer complaints being aged 120 days or less. There have been no open consumer complaints aged over 180 days for any reporting period in the past three-and-a-half years. This continues to compare favorably to the end of fiscal year 2008 when 23% of open consumer complaints were aged over 180 days.

II.4 Objective: Continue to enhance the licensing operational processes and database for more effective administration of the interface between our existing licensing database and the NMLSR. Continue to explore, develop, and implement additional web-based capabilities for licensees/registrants and consumers to more efficiently access department licensing information.

Measure: Specified enhancements/improvements completed with description of each at the end of each fiscal year quarter.

Status: The Department, in its efforts to provide more web-based capabilities, recently implemented an enhancement to allow companies the ability to utilize the online system the Department uses, Texas.gov, to pay most administrative penalties and court costs assessed them using a credit card or electronic check. Previously this functionality was available only to individuals. Additionally, in an effort to provide better functionality a text-based search box was added to the Department's website to provide licensees/registrants and consumers with a means to efficiently access desired content. An online consumer complaint form was also developed and added to the website to allow consumers to file complaints in a more expedited manner than by fax or physical mail. The Department will continue to look for ways to enhance the Departments web-based presence.

**Department of Savings and Mortgage Lending
Priorities for Fiscal Year 2012**

- II.5 Objective:** Continue to participate in the development and implementation of home equity interpretations.

Measure: Continued participation in meetings of the Home Equity Lending Working Group, comprised of representatives from the Department of Savings and Mortgage Lending, the Office of Consumer Credit Commissioner, the Department of Banking, and the Credit Union Department.

Status: The Department continues to participate with the Home Equity Lending Working Group as necessary.

- II.6 Objective:** Continue to remain active and involved at the national level on supervisory issues affecting savings banks and residential mortgage loan originators.

Measure: Maintain active contact with other states individually and through regulatory associations (e.g., ACSSS, CSBS, NACCA, and SRR), trade associations (e.g., DFWAMB, IBAT, TAR, TBA, and TMBA) and frequent contact with federal regulators so as to be aware of events, decisions, other state and federal policies and other areas of actual or potential impact on the Department's regulatory functions or the industry. Take proactive steps to respond as issues arise affecting the industries or supervisory duties.

Status: Department representatives have attended conferences, served as directors or committee members, and participated in continuous weekly conference calls for all of the associations listed above. In addition to these primary regulatory trade groups, staff has also been engaged in board level activities with the Federal Financial Institution Examination Council (FFIEC), Federal Banking Information Infrastructure Committee (FBIIC) and State Financial Regulator Roundtable (SFRR).

- II.7 Objective:** Implement the regulatory requirements relating to the Residential Mortgage Loan Servicer Registration Act, Finance Code Chapter 158.

Measure: Allow for registration through NMLS to begin by effective date of the Act, September 1, 2011. Develop and finalize processes and procedures to ensure effective and efficient registration of affected loan servicers. Take proactive steps to notify potential registrants of regulatory requirements.

Status: During the first six months of fiscal year 2012 a total of 69 Residential Mortgage Loan Servicers registrations have been approved and there is approximately 20 registrations pending. Through the consumer complaint process, the Department continues to identify servicing companies which should be registered. We will notify any un-registered companies of the September 2011 statutory change and direct them to the NMLS resource website to begin registration. Outreach has also been made to the various mortgage trade associations regarding the new registration requirement.

**Department of Savings and Mortgage Lending
Priorities for Fiscal Year 2012**

- II.8 Objective:** Complete the initial round of compliance examinations for Mortgage Bankers registered and sponsored Residential Mortgage Loan Originators licensed under, Finance Code Chapter 157.

Measure: Number of examinations completed compared to the total number of registered Mortgage Banker Companies.

Status: At the end of the 2nd quarter of fiscal year 2012 there were approximately 350 active mortgage banker registrations and total of 76 examinations had been completed. The examination scheduling for mortgage bankers has been risk based driven by the number of sponsored originators. There are 93(26%) mortgage bankers which sponsor more than 20 originators. Of this population 52(56%) examinations have been completed and an additional 19 examinations (20%) are scheduled for the 3rd quarter of fiscal year 2012. Examinations will begin on the 162 (46%) mortgage bankers which sponsor 4 or fewer originators beginning in the 3rd quarter of fiscal year 2012. These smaller banker exams will be conducted by individual examiners rather than a team effort because of the reduced file review requirements.

III. Outreach – Consumer Protection

- III.1 Objective:** Assist in promoting industry trade groups' efforts in conveying the importance of increased and applicable education as well as regulatory issues.

Measure: Number of presentations to industry groups with description of each and membership in outreach groups.

Status: The Department continues to make presentations around the state to various trade groups with thirteen such presentations to date this fiscal year in eight different cities.

- III.2 Objective:** Expend efforts to identify unlicensed activity as the scope of licensing has been expanded through implementation of the SAFE Act

Measure: Number of outreach efforts to varied groups as well as resource postings on our website. Volume of enforcement actions for unlicensed activity.

Status: The Department conducted 27 presentations to a variety of groups over the past two years regarding the SAFE Act and new licensing requirements. In addition to the presentations, important information has been continually posted on the department's website and e-mailed to licensees. A high level of unlicensed activity has been discovered through examination of new licensees and is anticipated to continue through

**Department of Savings and Mortgage Lending
Priorities for Fiscal Year 2012**

the end of fiscal year 2012. The volume of unlicensed activity should decrease after the initial examination cycle of new licensees is completed.

IV. Administrative Issues

- IV.1 **Objective:** Recruit personnel with the appropriate skill set necessary to meet the agency's short- and long-term needs. Maintain adequate staffing, train employees as needed, maintain retention of qualified personnel. Identify, analyze, and address root causes for preventable turnover.

Measure: Reporting on staffing activity, actions to retain staff, and turnover ratios.

Status: The Department has lost three employees during the current fiscal year to date, one of which was not preventable. Significant efforts are made to provide training for job skills and personal development and enrichment. The Department's structure and business needs are monitored on an ongoing basis in an effort to anticipate needed skills and qualifications.

- IV.2 **Objective:** Prepare for the organizational changes that will occur as our senior staff members retire.

Measure: Summary of efforts directly related to this issue semi-annually.

Status: Succession planning remains a priority with our two most senior managers currently eligible to retire (Commissioner, Deputy Commissioner Thrift Exams). Specific individuals are undergoing cross-training in an effort to assume back-up roles to key positions. Comprehensive agency wide succession plans reveal no single point of failure as operational efficiency can be maintained despite the loss of any one person throughout the organizational chart.

- IV.3 **Objective:** Prepare for the organizational changes that may occur in functional work areas as licensing workload diminishes and/or shifts to the NMLSR and workload increases with mortgage banker and wholesale thrift examination functions are added.

Measure: Summary of efforts included in reporting to the Finance Commission.

Status: During the first half of 2012, the Department, after reviewing the HUD rule and the workload related to an area covered by the rule, determined the need to adjust staffing and terminate one employee. The rule provided clarification to the licensing and regulation of governmental and bona fide non-profit entities. The clarification exempted part and limited the authority over these areas. The employee that was terminated was specifically hired to work in the areas of governmental and non-profits, for both the

Department of Savings and Mortgage Lending
Priorities for Fiscal Year 2012

licensing and examination sections. The Department will continue to monitor workload changes within licensing and examinations and adjust staff as needed.

- IV.4 Objective:** Meet or exceed 90% of the key performance measures within the agency's control - four out of nine. Strive to reduce deficiency, if any, in the remaining five measures outside the department's control.

Measure: Performance measure results at fiscal year end.

Status: The department has 4 key output performance measures, two of which: "Number of Licenses Approved" and "Number of Complaints processed", are outside of our control. The transition of all licensees to NMLS during 2011 caused the measure to be at over 1,000% of actual target. The number of processed complaints was 86% of target due to the reduced licensee population.

The two remaining key measures that are under our control are the number of thrift safety and soundness examinations and mortgage originator compliance examinations. Thrift safety and soundness examinations are at 120% of the target measure as we have significantly stepped up our on-site presence at institutions due to a decline in overall ratings during the recent economic crisis.

The number of originators examined has exceeded projections due to large exams being completed during the fourth quarter.

- IV.5 Objective:** Implement improvements in business processes and internal controls in response to evolving business needs, audit recommendations, and/or internal reviews.

Measure: Report on implementation progress and outcome of audits to Finance Commission Audit Committee.

Status: Currently, there are no outstanding audit findings. Business processes are intermittently monitored internally and modified to address changes in business needs. With the change of the agency's status, the agency's allowed use of the statewide accounting systems changed that affected the agency's abilities to track and report fiscal data. In order to maintain fiscal data integrity and improve reporting, the Department purchased new accounting software SAGE MIP at the end of last year, which is now fully implemented.

- IV.6 Objective:** Monitor the agency's budget on an ongoing basis and maximize use of the responsiveness and flexibility allowed by the Self-Directed/Semi-Independent status

Measure: Report to Finance Commission Audit Committee at least quarterly on both revenue and expenditure variances to the budget.

Department of Savings and Mortgage Lending
Priorities for Fiscal Year 2012

Status: Reports have been submitted quarterly to the Finance Commission as required, but internally the budget is monitored on an ongoing basis. The new accounting software assists greatly with monitoring, analysis, and reporting of the agency's budget,

FY 2013 – 2017 Strategic Planning: Stakeholder and Agency Staff Priority Comparison

Stakeholder Priorities		Agency Staff Priorities	
TECHNOLOGY DATA/RECORDS MANAGEMENT	Licensing	<ul style="list-style-type: none"> • Create Efficiencies in Application Process and Amendments • Create Interactive Functionality of Licensing Processes Examination & Investigation • Create Efficiencies in Exam Report Delivery to Licensees • Create CAB Desktop Audits Related to Online Compliance • Review of Third-Party CAB Software Products 	<ul style="list-style-type: none"> • Redesign Agency Databases • Identify Improved Integration and Functionality of Agency Databases • Implement Web-Based Forms (e.g. Licensing and Consumer Assistance) Policies and Procedures • Review and Update for Effectiveness and Efficiency of Data and Records Management
	Compliance Education	<ul style="list-style-type: none"> • Provide Additional Online Training Modules 	<ul style="list-style-type: none"> • Increase Online Offerings for Compliance Training/Resources
	Financial Education	<ul style="list-style-type: none"> • Identify Measurable Outcomes • Create Partnerships with Non-Government Organizations • Identify Sources of Grant Funding 	<ul style="list-style-type: none"> • Provide Timely and Updated Regulatory Information to Affected Stakeholders • Investigate Opportunities for Regional Seminars/Workshops
	Policy & Rule Development	<ul style="list-style-type: none"> • Establish Common Vocabulary (Debt Mgmt/Settlement) • Establish Consistent Measurements (e.g. Consumer Success) • Conduct Review of Interpretation Letters • Post Rule and Regulatory Updates • Make Rules and Agency Communications Searchable • Provide Transparency in Fee Allocation Across Industries/Industry Segments • Work with CFPB and Promote State Regulation • Establish Social Media Presence • Redesign Agency Website 	<ul style="list-style-type: none"> • Promote Increased Staff Participation in Community Events and Outreach (e.g. providing workshops, volunteering at events, identifying resources) • Identify Opportunities for Financial Literacy Offerings and Resources • Develop Partnerships with Federal and State Agencies (e.g. Consumer Assistance Roundtable, OAG, CFPB) • Develop Relevant Outcome Measures • Establish Social Media Presence (e.g. Regulatory Update Notifications, Approaching Deadlines, Financial Education Opportunities)
TRAINING, DEVELOPMENT, AND RETENTION	COMMUNICATIONS	<ul style="list-style-type: none"> • Redesign Agency Website • Provide Increased Functionality and Enhanced Navigation • Ensure Updated, Timely and Relevant Content • Provide FAQs for Agency Processes and Departments • Internal Communications • Develop Effective Internal Communication Tools (e.g. Intranet, Email Blasts, Newsletters) • Provide Regular and Informative Updates Across Departments 	<ul style="list-style-type: none"> • Increase/Enhance Professional and Substantive Training Opportunities • Review/Enhance Performance Management Processes • Review/Update Procedures for Competitive Salaries and Merit/Reward Programs




Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

2601 North Lamar Blvd., Austin, Texas 78705
512-475-1300 / 877-276-5554
www.dob.texas.gov

Memorandum

To: Finance Commission Members

From: Wendy Rodriguez, Director of Strategic Support 

Date: April 4, 2012

Subject: Summary of Strategic Planning Meeting Dialogue

The Texas Department of Banking held its Strategic Planning meeting February 22 – 23, 2012 at the La Quinta Inn and Suites Austin Mopac North. Internal staff, along with industry representatives from the banking, money services business, prepaid funeral contact and perpetual care cemetery industries, and the banking trade associations participated.

Vital insight into each respective industry, with an emphasis on the future, was provided. Positive feedback on the Department's performance, professionalism, knowledge and accessibility was provided by industry representatives. None had suggestions for improvements in Department operations.

Items discussed included, but were not limited to:

- Economic impact on financial institutions.
 - Texas is in much better shape than the rest of the nation, the economy should continue to show modest gains.
 - The energy sector currently drives the Texas economy, but burdens Texas citizens.
 - The repercussions from the drought vary throughout the state. Higher prices will likely follow, reducing the amount of disposable income.
 - The trickle-down effects of higher prices for consumers will likely decrease loan demand.
 - The community bank business model will be focused on the basics and slow growth.
- Technology is transforming commerce and payments, however, these opportunities also bring security threats to regulated entities. Awareness is the key.
 - Emerging money services business products continue to challenge the Department's knowledge base.
- Federal regulations, such as Dodd-Frank Wall Street Reform and Consumer Protection Act.
 - Industries are concerned with regulatory trends, compliance burden and associated costs.
 - The changes in laws, regulations, etc., being introduced by the Consumer Financial Protection Bureau are beginning to take shape. Entities in the financial services industry will be pressed to comply with the changes and adapt existing product lines.
 - Other areas of concern in the regulatory realm include preemption, overlapping of regulatory oversight, and joint/concurrent examinations.
- Consolidations and acquisitions will be driven by a variety of factors, such as:
 - Aging CEOs and boards and inadequate succession planning for either retiring management or investors;
 - High assessments by federal regulator;

- o Management and board fatigue as a result of regulatory and business environment; and,
 - o The cost and management of the new requirements.
- Changes in State Leadership
 - o It is estimated that two-thirds of the Texas House of Representatives will be up for reelection. The outcome and impact of elections is unknown.
 - o Decisions to alter or change the State's employee benefit plan may impact staffing throughout the state. Depending on the action, retirements may be accelerated.
- For the Department, retirement and the possible effect on agency knowledge/expertise is a concern.
 - o Management succession and cross training of staff is essential.
- Staffing for problem banks remains a necessity; further, the industry is evolving and has resulted in more complex entities entering the state financial regulatory system.
 - o Larger, more complex entities will require additional staffing while maintaining current examination needs.
- To improve agency efficiencies, we must evolve and utilize new technology to streamline agency processes for consistency and to meet legislative mandates.

POST MEETING ACTION ITEMS

All discussion points have been summarized and will be used as the basis to begin drafting the plan. Several internal staff members have begun gathering information and other supporting documentations for the purpose of drafting. A draft of the plan is anticipated by early May and a second stakeholder meeting will be scheduled for mid-May 2012. The intent of a second meeting is for the group to provide feedback and comment on the draft product in preparation for its finalization.



Douglas B. Foster
Commissioner

TEXAS DEPARTMENT OF SAVINGS & MORTGAGE LENDING

Summary of Strategic Plan External Feedback

The department reached out separately to the state savings bank and mortgage origination industries soliciting feedback from industry constituents. This included individual charters and licensees as well as four related trade groups.

The outreach was initially performed through email and those who responded favorably were provided copies of the draft strategic plan with instructions to provide any feedback they thought appropriate and specifically input in respect to:

- 1) Have we missed a topic of major concern to you and your business?
- 2) In the material we have covered, have we misstated or placed inappropriate emphasis?
- 3) Is the presentation of the material confusing or does it flow well from your perspective?

State Savings Bank feedback

- The draft Strategic Plan is comprehensive and well-written.
- Identification of priorities is accurate.
- Emerging issues appears to be adequately covered.
- I believe you have covered issues as they appear today but, who knows what will happen this year.

Suggested clarifications in the discussion of the industry's aggregate non-performing asset levels. These comments were accepted into the plan.

Suggested changes to discussion of merger of the OTS into the OCC. These comments were accepted into the plan.

Concerns were also expressed regarding Fair Lending.

Mortgage Loan Originator feedback

Comments and suggestions made during the Mortgage Industry Advisory Committee, by members and general public in attendance at the meeting, included the following:

- Very thorough, the agency serves as a model for other states and wishes that the agency could be "bottled" to be given to other states.
- Would not change anything, very well done.
- Suggestion to expand and comment on the cooperation between the agency and CFPB.
- Suggestion to expand the information regarding the call report and annual financial condition report, since that is a hot topic currently with the industry.
- This strategic plan serves as roadmap for the industry.
- Can the report not be shorter?
- Compliance, Compliance, Compliance

The overall consensus of the Department's Strategic Plan was that it was in good order and well prepared. Areas of suggested change related to moving the order of presentation for loan officer compensation and mortgage call and annual reports closer to the top to better reflect a sense of priority. These comments were accepted into the plan.